

**Before the  
FEDERAL COMMUNICATIONS COMMISSION**

**Washington, D.C. 20554**

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In the Matter of	)	
	)	
Request for Review of Decisions of the	)	CC Docket No. 02-6
Universal Service Administrator	)	
	)	
Paducah Independent School District	)	
("Paducah")	)	File No. SLD-547024 (FY2007)-Paducah
	)	SLD-555730 (FY2007)-Hopkins
Hopkins County School District ("Hopkins")	)	SLD-454894 (FY2005)-Paducah
	)	SLD-454836 (FY2005)-Paducah
Computer Consulting & Network Design,	)	
Inc.	)	
	)	
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**CONSOLIDATED REQUEST FOR REVIEW**

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April 25, 2011

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## **SUMMARY**

Quite simply, the decision by the School and Library Division (“SLD”) to deny funding for Paducah and Hopkins, as well as to issue FY2005 COMADs for Paducah, does not make sense and is not defensible. First, the SLD recently approved an appeal for Hopkins that included the same exact issue. Second, the SLD failed to meet its burden to prove a competitive bid violation established in the *Pattern Analysis Remand Order and Caldwell Parish*. Third, the SLD’s FCDL Denials and Paducah COMADs are flawed, because there is nothing in the federal rules that disallows a vendor from providing a sample RFP to a school, especially, as the case here, when that sample RFP was originally developed as a generic template from multiple sources prior to E-rate, in circulation multiple years, available in the public domain and used by other school districts. Fourth, the FCDL Denials, Paducah COMADs and pattern analysis procedure is flawed because the sample RFP is vendor neutral. There is nothing in the sample RFP that would prohibit any vendor for competing for the sought after E-rate services. All vendors were afforded equal opportunity to solicit bid responses to all of the Schools. As such, no competitive bid violation could occur. Fifth, the SLD’s the FCDL Denials, Paducah COMADs and SLD’s pattern analysis procedure is flawed, because the SLD failed to provide any evidence establishing that the sample RFPs were tainted in any manner by Computer Consulting. Sixth, the SLD completely disregarded the record evidence and certifications by the Schools that clearly evidenced that the Schools were in complete control of their competitive bid process.

In fact, as discussed herein, this case is in direct contravention of the Commission’s *Pattern Analysis Remand Order and Caldwell Parish Order*, in which the Commission concluded that mere presence of a pattern or similarity does not rise to the level of a competitive

bid rule violation. The Commission clearly stated that the SLD must make competitive bid rule violation determinations on a case-by-case (school-by-school) application review. Simply noting that a school received a sample RFP from a service provider is insufficient to determine that a competitive bid rule violation has occurred.

Moreover, the facts in this case unequivocally demonstrate that the Schools were in complete control of their competitive bid process. The sample RFP was simply that, a sample RFP. The Schools used information to comply with state procurement laws and sharing information and using information that they received from training, Internet searches, and fellow colleagues. They have told their stories through multiple years of PAIR responses and Declarations, selective reviews, site visits, and each of their stories end with the statement that that there was no impermissible service provider involvement in the competitive bid process. The Schools did not surrender control to Computer Consulting or any other service provider.

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To: The Commission

**CONSOLIDATED REQUEST FOR REVIEW**

Computer Consulting & Network Design, Inc. ("Computer Consulting"), through counsel, along with Paducah Independent School District ("Paducah") and Hopkins County School District ("Hopkins") (collectively, the "Schools") and pursuant to Section 54.719(c) of the Federal Communication Commission's ("Commission") rules, submits this Request for Review seeking reversal of 2007 Funding Commitment Decision Letter Denials for Paducah and

Hopkins, as well as the COMADs for Paducah for FY2005, made by the Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC” or “Administrator”).

On February 24, 2011, SLD issued a Funding Commitment Decision Letter, in which it denied funding for Paducah (FRN 1510189) and Hopkins (FRN 1532841).<sup>1</sup> In addition, February 28, 2011, the SLD issued two Notification of Commitment Adjustment Letters for Paducah for FY2005 (FRNs 1251917, 1251907, 1251912, 1251923, 1251929, 1251573, 1251580, 1251590, 1251645, 1251651) (“COMADS”).<sup>2</sup> The reason SLD cites for the FCDL Denial is based upon Computer Consulting providing each of the school districts with sample RFPs. The sample RFPs that SLD references are widely available in the public domain, were used by multiple school districts, and completely generic. SLD used the same denial reason four years ago for some of the same and similarly situated Kentucky schools,<sup>3</sup> which were the subject of a consolidated appeal filed with SLD on September 28, 2007, by Computer Consulting, Hopkins, Muhlenberg, and Huntingdon. (“USAC Consolidated Appeal”). That request was finally APPROVED by SLD on March 11, 2011 for Hopkins.<sup>4</sup>

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<sup>1</sup> Exhibit A, Funding Commitment Decision Letter for FY2007 (Paducah and Hopkins).

<sup>2</sup> Exhibit B, Paducah COMADs for FY2005.

<sup>3</sup> In addition to the sample RFP, these denials were based on similarities on the FCC Form 470, which were not at issue in this appeal. The only SLD denial reason was based upon the sample RFP.

<sup>4</sup> Exhibit C, Administrator’s Decisions on Appeal – Funding Year 2005-2006 (Hopkins). On March 11, 2011, for Muhlenberg and Huntingdon, USAC indicated that it does not need to reach any decision on appeal, because Huntingdon cancelled its FRNs on February 1, 2011 and October 30, 2007. See Exhibit D, Administrator’s Decisions on Appeal – Funding Year 2005-2006 (Muhlenberg and Huntingdon). As to Huntingdon, it appears from the record that USAC only denied Huntingdon’s SLD appeal on October 18, 2007, then Huntingdon cancelled its FRNs on October 30, 2007, then USAC issues a second appeal on March 11, 2011, noting that Huntingdon cancelled its FRNs in October 2007.

This Appeal is timely. Section 54.720(a) of the Commission's rules requires the filing of an appeal "within sixty (60) days of issuance" of a decision by SLD. SLD's FCDL Denials were made on February 24, 2011 and 60 days thereafter is April 25, 2011, the due date for filing this appeal.<sup>5</sup>

In addition, Computer Consulting and the Schools have standing to file this appeal because Section 54.719(c) of the Commission's rules provides that, "[a]ny person aggrieved by an action taken by a division of the Administrator ... may seek review from the Federal Communications Commission."<sup>6</sup> In this case, Computer Consulting and the Schools are directly aggrieved by SLD's denial of funding. The SLD erroneously concluded there were competitive bid violations, because Computer Consulting provided sample RFPs to Paducah and Hopkins.

## **I. INTRODUCTION**

SLD erred when it denied funding for Paducah and Hopkins, as well as issued FY2005 COMADs for Paducah. First, the SLD recently APPROVED an appeal for Hopkins that included the same exact issue. Second, the SLD failed to meet its burden to prove a competitive bid violation established in the *Pattern Analysis Remand Order and Caldwell Parish*. Third, the SLD's FCDL Denials and Paducah COMADs are flawed, because there is nothing in the federal rules that disallows a vendor from providing a sample RFP to a school, especially, as the case here, when that sample RFP was originally developed as a generic template from multiple sources prior to E-rate, in circulation multiple years, available in the public domain and used by other school districts. Fourth, the FCDL Denials, Paducah COMADs and pattern analysis procedure are flawed because the sample RFP is vendor neutral. There is nothing in the sample

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<sup>5</sup> 47 C.F.R. § 1.4; § 54.723(a) ("The Wireline Competition Bureau shall conduct *de novo* review of request for review of decisions issue[d] by the Administrator.") (emphasis in original).

<sup>6</sup> 47 C.F.R. § 54.719(c).

RFP that would prohibit any vendor for competing for the sought after E-rate services. All vendors were afforded equal opportunity to solicit bid responses to all of the Schools. As such, no competitive bid violation could occur. Fifth, the SLD's FCDL Denials, Paducah COMADs and pattern analysis procedure are flawed, because the SLD failed to provide any evidence establishing that the sample RFPs were tainted in any manner by Computer Consulting. Sixth, the SLD completely disregarded the record evidence and certifications by the Schools that clearly evidenced that the Schools were in complete control of their competitive bid process, developed their own RFPs based upon sharing among other school districts.

In fact, this case is in direct contravention of the Commission's *Pattern Analysis Remand Order* and *Caldwell Parish*, in which the Commission concluded that mere presence of a pattern or similarity does not rise to the level of a Commission competitive bid rule violation. Here, by ignoring the evidence and certifications submitted by the Schools in response to SLD's Pattern Analysis Information Request, SLD concludes that a school and service provider are in violation of the competitive bid rules if the service provider provides a school with a sample RFP that was: (1) created with multiple party input before E-rate, (2) in circulation in the public domain for years, (3) shared and tailored by multiple school districts, and (4) shared over a Kentucky state listserv of over 40 school districts. SLD provides neither proof, nor citation to support this decision

In the *Pattern Analysis Remand Order*, the Commission clearly stated that SLD must make competitive bid rule violation determinations on a case-by-case (school-by-school) application review. Simply noting that a school received a sample RFP from a service provider is insufficient to determine that a competitive bid rule violation has occurred.



Moreover, the facts in this case unequivocally demonstrate that the Schools were in complete control of their competitive bid process. The sample RFP was simply that, a sample RFP. The Schools used information to comply with state procurement laws and sharing information and using information that it received from training, Internet searches, and fellow colleagues. They have told their stories through multiple years of PAIR responses and Declarations, selective reviews, site visits, and each of their stories end with the statement that that there was no impermissible service provider involvement in the competitive bid process and the Schools did not surrender control to Computer Consulting or any other service provider.

In short, the issue in this case is simple and undisputed – did the sample RFP provided by Computer Consulting rise to the level of a competitive bid violation. The answer is clearly that it didn't, and SLD confirmed this answer when it overturned a previous decision that dealt with a similar sample RFP that is also the very subject of this appeal again for Hopkins. Specifically, on March 11, 2011, SLD approved all of Hopkins Funding Request Numbers in its Administrator's Decision on Appeal for Funding Year 2005-2006, finding that:

*Pursuant to the Commission's directives in In the Matter of Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technologies San Antonio, TX, et al., Schools and Libraries Universal Service Support Mechanism and In the Matter of Requests for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District et al. Columbia, Louisiana Schools & Libraries Universal Service Support Mechanism, the SLD has determined that the Funding Request Numbers cited above should be approved for funding.*<sup>7</sup>

Therefore, because SLD has already acknowledged that the sample RFP was not a competitive bid violation and because that decision relates directly to the sample RFPs in this case, the Commission should swiftly overturn these most recent FCDL Denials and Paducah COMADs.

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<sup>7</sup> Exhibit C, Administrator's Decisions on Appeal – Funding Year 2005-2006 (Hopkins).

## **II. STATEMENT OF FACTS<sup>8</sup>**

### **A. The Parties.**

The Schools are K-12 public school districts with a high school, middle school, and primary school. Computer Consulting provides E-rate eligible internal connections and basic maintenance services to the educational market. It also provides other network services such as needs and requirements analysis, hardware and software solution recommendations, networking system selection and design, cabling system selection and design, project management of solution installation and turn-key solutions for computer networking.

More specifically, Computer Consulting is a communications systems consulting, design, project management, installation, systems integration, and systems support company that has been in business working primarily with the K-12 industry vertical since 1992, six years prior to implementation of the E-rate program. Computer Consulting provides many services to the K-12 school community, some of which are E-rate eligible and some that are not. Computer Consultants, like many businesses, does not exist solely to serve E-rate clients, and thus all aspects of its business are not required to, and do not, conform to the requirements of USAC or the E-rate program. In all dealing on E-rate matters, however, Computer Consulting is very aware of the FCC's rules and the program rules and makes all efforts to comply. Because of Computer Consulting's extensive involvement and commitment to supporting the E-rate program (it has been actively involved in the E-rate program since it was a draft document in Congress and has been one of the champions of E-rate in the Commonwealth of Kentucky as well as the

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<sup>8</sup> All of the facts set forth in the "Statement of Facts" section of this Consolidated Request for Review have been attested to, under penalty of perjury, by Computer Consulting and the Schools IT Directors. Exhibit E, Declarations of Jeff Nelson and Dale Weaver (Paducah); Shari Winstead (Hopkins); Dennis Gomer (Computer Consulting).

State of Tennessee), Computer Consulting is widely considered to have a good understanding of the program.

**B. Key Background Facts.**

**1. Paducah**

In 2007, SLD sent a Pattern Analysis Information Request (“PAIR”) to Paducah that requested information pertaining to the sample RFP that pertained to FY2005. Paducah’s Director of Technology responded to SLD’s request in a timely manner and clearly stated that Paducah was completely responsible for its RFPs and competitive bid process.<sup>9</sup> Paducah also supplied SLD directly with a sample of the RFP that Computer Consulting provided to Paducah and is at issue in this case.<sup>10</sup> The sample RFP clearly demonstrates that this was not created by Computer Consulting; but rather, was used by another school district, namely Huntingdon Special School District. The sample RFP is also the same that is at issue in the approved Hopkins appeal.

After conducting an open and fair competitive bid process, Paducah chose Computer Consulting to provide E-Rate services for internal connections and basic maintenance for internal connections. The contract entered into was for multiple years and covers FY2007.

On February 24, 2011, SLD issued the FCDL Denials for FY 2007. Four days latter, SLD issued two COMADs for Paducah for FY2005. Paducah only received one PAIR letter and only provided one PAIR response to SLD regarding this matter. The sample RFP at issue in both the FCDL Denials and the COMADs is the same.

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<sup>9</sup> Exhibit F, Pattern Analysis Information Request FY2005 & Paducah’s Responses; Exhibit E, Declarations of Jeff Nelson (Paducah). This was the only PAIR request Paducah received from USAC regarding this matter.

<sup>10</sup> Exhibit G, Sample RFP.

## **2. Hopkins**

As stated above, this issue was squarely before SLD in the 2007 Appeal, which SLD recently approved on March 11, 2011. The 2007 Appeal was for FY2005 FRNs. The facts and arguments made in the Hopkins's Declaration, in which Shari Winstead stated that "All sections of the Hopkins RFP are vendor neutral and were prepared with no assistance from non-Hopkins employees," are attached hereto and specifically incorporated by reference into this appeal.<sup>11</sup>

### **III. STANDARD OF REVIEW**

SLD's authority to administer the E-Rate Program is limited to implementing and applying the Commission's rules and the Commission's interpretations of those rules as found in agency adjudications.<sup>12</sup> SLD is not empowered to make policy, interpret any unclear rule promulgated by the Commission,<sup>13</sup> or to create the equivalent of new guidelines.<sup>14</sup> SLD is responsible for "administering the universal support mechanisms in an efficient, effective, and competitively neutral manner."<sup>15</sup>

### **IV. THE CONTROLLING LAW**

#### **A. The Competitive Bid FCC Regulations**

The competitive bid requirements of the E-rate federal regulations require applicants (schools and libraries) to seek competitive bids for eligible services through completing,

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<sup>11</sup> See Exhibit E, Declaration of Shari Winstead.

<sup>12</sup> 47 C.F.R. § 54.702(c).

<sup>13</sup> *Id.*

<sup>14</sup> *Changes to the Board of Directors of the Nat'l Exchange Carrier Ass'n, Inc.*, Third Report and Order, 13 FCC Rcd 25058, 25066-67 (1998).

<sup>15</sup> 47 C.F.R. § 54.701(a).

certifying, and submitting an FCC Form 470 to SLD.<sup>16</sup> The FCC Form 470 identifies the services sought by the applicant and identifies other competitive bid requirements.<sup>17</sup> The Commission has adopted certain requirements that the applicant must follow to ensure that the competitive bid process is fair and open.

For example, the FCC Form 470 must be completed by an applicant that will negotiate with prospective service providers and signed by a person authorized to request the services on behalf of the applicant.<sup>18</sup> The FCC Form 470 also requires the applicant to name a contact person, who is responsible to speak to prospective service providers as well as assist prospective service providers with obtaining a separately prepared RFP, if applicable.<sup>19</sup> Finally, the statute requires the applicant to wait 28 days<sup>20</sup> before selecting “the most cost-effective service or equipment offering, with price being the primary factor.”<sup>21</sup>

#### **B. The Commission’s *MasterMind* Decision Interpreted the Competitive Bid Requirements and Provided Further Guidance**

In 2000, for the first time, the Commission addressed the violation of competitive bid requirements in the E-rate Program in its *MasterMind Order*.<sup>22</sup> The Commission in the MasterMind Decision interpreted the competitive bid statute to hold **that a competitive bid**

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<sup>16</sup> 47 C.F.R. § 54.504(a), (b).

<sup>17</sup> Schools and Libraries Universal Service, *Description of Services Requested and Certification Form*, OMB 3060-0806 (FCC Form 470).

<sup>18</sup> FCC Form 470 Instructions at 19-20, *available at* [http://www.universalservice.org/\\_res/documents/sl/pdf/470i.pdf](http://www.universalservice.org/_res/documents/sl/pdf/470i.pdf).

<sup>19</sup> *Id.*

<sup>20</sup> 47 C.F.R. § 54.504(b)(4).

<sup>21</sup> 47 C.F.R. § 54.504(b)(2)(vii).

<sup>22</sup> Request for Review of Decisions for the Universal Service Administrator by MasterMind Services, 16 FCC Rcd 4028 (2000) (“MasterMind Order”).

**violation would occur where the applicant surrendered its control to the service provider during the competitive bid process by allowing the service provider to—**

- (1) sign the FCC Form 470,
- (2) act as the point of contact on the FCC Form 470,
- (3) prepare and issue an FCC Form 470 or RFP that was not competitively neutral, *i.e.*, seeking products and services that only were tailored in favor of one provider,
- (4) receive the proposals of other competitors,
- (5) control information flowing from the applicant to other service providers,
- (6) assist in the evaluation of the bids for which the service provider was also bidding,
- (7) provide advice and assistance to the applicants with respect to competitors' bids, and/or
- (8) receive the applicant RFP prior to it being made available publicly, so that such receipt would provide a competitive advantage to one provider over another.<sup>23</sup>

However, most significant and applicable to the facts of this Consolidated Appeal is the finding by the Commission in *MasterMind* that no competitive bidding violation occurred, despite hands on service provider involvements, where (1) the applications did not name a MasterMind employee as the contact person and (2) a MasterMind employee did not sign the FCC Form 470 or FCC Form 471.<sup>24</sup> Thus, the Commission clearly recognized that the service provider will participate as a vendor during the competitive bid process and may provide assistance.

The facts in this Consolidated Appeal clearly establish that neither the Schools nor Computer Consulting violated the law or spirit of the *MasterMind Decision*. The Schools never surrendered control of their competitive bid process and Computer Consulting never committed any act that violated the criteria articulated in the *MasterMind Decision*.

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<sup>23</sup> *Id.*, ¶¶10-14.

<sup>24</sup> *Id.* at 4034-35 ¶14.

### C. The Commission's *Pattern Analysis Remand Order*

The SLD's "pattern analysis procedure" has always been controversial. USAC, not the Commission, created this procedure. In 2006, the Commission instructed USAC that the mere presence of a pattern or similarity does not rise to the level of a Commission competitive bid rule violation in its *Pattern Analysis Remand Order*.<sup>25</sup> Specifically, the Commission found that USAC improperly denied the funding requests based on a "pattern analysis," because USAC failed to make a determination on a case-by-case basis that the Commission's competitive bid rules were violated.<sup>26</sup>

While the Commission acknowledged the utility of a "pattern analysis procedure" in helping to identify malfeasance,<sup>27</sup> in the *Pattern Analysis Remand Order*, the Commission made the following important points about mistakes SLD should not make again in its consideration of the appeals on remand **or other application reviews** when utilizing the "pattern analysis procedure:"

- (1) USAC improperly denied the requests for funding without determining whether the Commission's rules were violated due to improper third-party participation in the applicants' competitive bidding processes;<sup>28</sup>
- (2) USAC presumed that schools violated the competitive bidding rules based on reviewing another applicant's information, without performing any applicant-specific evaluations;<sup>29</sup>
- (3) It is incumbent on USAC to conduct further investigation and analysis prior to denying funding based on a "pattern analysis."<sup>30</sup> A pattern analysis, alone, does not

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<sup>25</sup> Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technologies San Antonio, TX, et al. and Schools and Libraries Universal Service Support Mechanism, Order, 21 FCC Rcd 5348, ¶1 (2006) ("*Pattern Analysis Remand Order*").

<sup>26</sup> *Id.*, ¶ 5.

<sup>27</sup> *Id.*, ¶ 8.

<sup>28</sup> *Id.*, ¶ 1.

<sup>29</sup> *Id.*, ¶ 6.

<sup>30</sup> *Id.*, ¶ 7.

justify a finding that an applicant has violated program rules or engaged in waste, fraud, or abuse;<sup>31</sup>

(4) USAC should not issue summary denials of requests for funding solely because applications contain similar language;<sup>32</sup> and

(5) USAC must determine whether funding is warranted and whether an applicant actually violated program rules.<sup>33</sup>

#### **D. The Commission's Caldwell Parish Order**

Beginning in 2006, with the *Pattern Analysis Remand Order* (also known as the *Academy of Careers* order), USAC has been charged with issuing awards or denials based on a **complete review and analysis**:<sup>34</sup> “In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it, or, if denying the application, provide the applicant with any and all grounds for denial.”<sup>35</sup>

Specifically, in the *Pattern Analysis Remand Order*, the FCC held:

For these reasons, we find that when USAC suspects that a service provider has improperly participated in an applicant's bidding process due to the results of its “pattern analysis” procedure, it is incumbent on USAC to conduct further investigation and analysis prior to denying funding. Specifically, USAC should review these applications fully, and should not issue summary denials of requests for funding solely because applications contain similar language. If an entity is

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<sup>31</sup> *Id.*, ¶ 8.

<sup>32</sup> *Id.*, ¶ 7.

<sup>33</sup> *Id.*, ¶ 8.

<sup>34</sup> *Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technologies San Antonio, TX, et al. and Schools and Libraries Universal Service Support Mechanism*, Order, 21 FCC Rcd 5348, ¶¶ 1 & 7 (2006) (“*Pattern Analysis Remand Order*” or “*Academy of Careers*”).

<sup>35</sup> *Requests for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District, et al. Columbia, Louisiana*, Order, 23 FCC Rcd 2784, ¶ 2 n.5 (2008) (“*Caldwell Parish*”); *See also Requests for Review and Waiver of Decisions of the Universal Service Administrator by State of Arkansas, Department of Information Systems, Little Rock, Arkansas, et al.*; Order, 23 FCC Rcd 9373, ¶ 1 n.5 (2008), *Requests for Review of the Decision of the Universal Service Administrator by District of Columbia Public Schools*, Order, 23 FCC Rcd 15585, ¶ 7 n.39 (2008), *Review of Decisions of the Universal Service Administrator by Collegio Nuestra Senora del Carmen, Hatillo, Puerto Rico, et al.*, Order, 23 FCC Rcd 15568, ¶ 18 n.62, and *Request for Review of a Decision of the Universal Service Administrator by Albert Lea Area Schools, Albert Lea, Minnesota, et al.*, Order, 24 FCC Rcd 4533, ¶ 11, n.51 (2009).



able to demonstrate that it fully complied with all program rules and did not, for example, violate the Commission's competitive bidding rules, then USAC should not deny funding on the basis of the "pattern analysis" procedure.<sup>36</sup>

In addition, the FCC decided another case that has a very similar fact pattern as here. In the *Caldwell Parish* case, SLD had before it multiple E-rate applications that it denied based on a pattern analysis and similarities across the applications. SLD did not, as here, allege, any specific competitive bidding violations with respect to each and every applicant, just allegations of possible impermissible service provider involvement based upon the pattern analysis. SLD also alleged, as it does here, that the applicant did not prove that a service provider was not involved in the competitive bidding process. Per the FCC, the burden of proving a rule violation, the burden of proving improper service provider involvement, is on SLD, not the applicant. The FCC found that SLD improperly denied the requests for funding "without sufficiently examining whether the Commission's rules actually were violated due to improper service provider involvement in the applicants' competitive bidding processes."<sup>37</sup> The Commission also found that "any perceived similarities on the applicants' FCC Forms 470 may not have been due to improper service provider involvement."<sup>38</sup> The Commission went on to find that:

[T]he applicants provided evidence that there was no improper service provider involvement. Each applicant asserted by sworn statement and under penalty of perjury that [the service provider] did not participate in the competitive bidding process. In response to the PAIR letters, these eight applicants each identified school personnel as the persons involved with filling out and submitting the FCC Forms 470 and that all FCC Forms 470 were filed from the applicant's premises. Additionally, in their responses to the PAIR letters, each applicant stated that no one outside of its school district assisted with determining the types of services for which it would seek bids. In fact, each applicant described the decision-making structure employed by the school and identified the school board or

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<sup>36</sup> *Academy of Careers*, ¶ 7.

<sup>37</sup> *Caldwell Parish*, ¶ 10.

<sup>38</sup> *Id.*, ¶ 13.

school staff involved in making the final determination of the services requested and the vendor selected.<sup>39</sup>

Nearly identical facts are present here. The Schools declared that Computer Consulting did not participate in the competitive bidding process and that the Schools were responsible for filling out and submitting forms, and making decisions about services requested. In the *Caldwell Parish* case, the Commission found that the schools' own personnel were responsible for filling out and submitting the FCC Forms 470 and that a service provider was not involved in these tasks. Accordingly, the Commission found that there was no violation of the Commission's competitive bidding rules when completing and submitting their FCC Forms 470.<sup>40</sup> We ask the Commission to apply the decisions and policies rendered in the *Pattern Analysis Remand Order /Academy of Careers* and *Caldwell Parish* orders to the situation at hand.<sup>41</sup>

Moreover, the SLD ignored the Schools responses and declarations that the Schools made under penalty of perjury. This it cannot do. On one hand, the SLD states that a service provider can provide vendor neutral assistance and, on the other hand, when it did so in the earlier years of the E-Rate Program, when rules and eligibility and relationships were still being defined by the SLD and not yet not codified by the Commission, the SLD, without citing any Commission rule, simply denies all the Schools despite the fact that it recently approved Hopkins for the same RFP issue that is at issue in this case.

In the interest of fairness, the public interest, due process, proper administrative oversight, these cases have been lingering for over six years with the SLD. The sample, vendor neutral RFP at issue was developed in the nascent stages of the E-Rate Program through multiple

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<sup>39</sup> *Caldwell Parish*, ¶13.

<sup>40</sup> *Id.*, ¶ 14.

<sup>41</sup> See Exhibit H, Response to USAC Letter of November 4, 2009 to Dennis Gomer of Computer Consulting, dated December 11, 2009.

sources and put into circulation by school districts over multiple years through the Kentucky State listserv, sharing between school districts, and discussions among school IT Directors.<sup>42</sup> This is what schools do, especially in rural school districts that do not benefit from budgetary resources for IT Departments. The school districts rely upon the sharing of information with one another. The SLD conducted its pattern analysis review and denied Kentucky schools in 2007 for FY2005 for the same RFP; then almost 4 years later it approves the appeal filed for FY2005 two weeks after it issues this set of FY2007 FCDL Denials and Paducah COMADS.

The result of this delay in decision has defacto suspended a service provider from participation in the E-Rate Program, and it has denied rural schools and their students access to sorely needed technology. It has created disruption in the ability of the schools to plan for technology, to budget for their technology needs, to do their job.<sup>43</sup>

#### **V. THE FACTS IN THIS CASE DEMONSTRATE THAT THE SCHOOLS CONDUCTED THEIR OWN COMPETITIVE BID PROCESS WITHOUT ANY SERVICE PROVIDER INVOLVEMENT**

Each Authorized School Representative provided complete answers to each question. Each School represented that either he/she or an employee of the School was responsible for preparing and filing the relevant Form 470. Each School specifically noted that no outside organization was used in determining the bid process. Each Authorized School Representative signed a Pattern Analysis Certification, declaring under penalty of perjury that there was no service provider involvement in the preparation or filing of the Form 470, the RFP, or in the competitive bidding process. Each School specifically stated that Computer Consulting did not participate in the preparation or filing of the Form 470, RFP, or the competitive bidding process.

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<sup>42</sup> See Exhibit E, Declarations of Jeff Nelson and Dale Weaver (Paducah); Shari Winstead (Hopkins); Dennis Gomer (Computer Consulting).

<sup>43</sup> See Exhibit E, Declarations of Jeff Nelson and Dale Weaver (Paducah).

Furthermore, the attached declarations validate and support the facts that Computer Consultants did not provide assistance in completing the Schools' RFPs; nor did they do anything to unfairly influence the outcome of competition.<sup>44</sup> In addition, it is important to note that Computer Consulting was and has been a service provider to Paducah since 2001 and to Hopkins since 2004, during which time, Computer Consulting has never interfered with the Schools competitive bidding processes nor offered any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms.<sup>45</sup> In fact, across funding years at issue, there were multiple successful bids from other entities for services offered by Computer Consulting.

SLD cannot be allowed to disregard these facts and the clear evidence in the record that there was no impermissible service provider involvement by Computer Consulting. No such involvement or rule violations on this basis were found by the SLD as required by the *Pattern Analysis Remand Order*. Accordingly, the Commission should grant this Consolidated Appeal.

The SLD ignored critical factual differences in this case from the *MasterMind* line of cases. First, in *MasterMind* and its progeny, the Commission denied the applicants' requests for funding because in each case an employee or representative of the service provider was listed as the contact for the applicant. In this case, however, there is no evidence that Computer Consulting is an employee or representative of the Schools. In addition, a service provider was not listed as a contact on the Schools FCC Form 470s. Rather, Computer Consulting simply

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<sup>44</sup> See Exhibit I, Hopkins PAIR Letter & Response; Exhibit F, Pattern Analysis Information Request FY2005 & Paducah's Responses. See also Exhibit E, Declarations of Jeff Nelson and Dale Weaver (Paducah); Shari Winstead (Hopkins); Dennis Gomer (Computer Consulting).

<sup>45</sup> See Exhibit I, Hopkins PAIR Letter & Response; Exhibit F, Pattern Analysis Information Request FY2005 & Paducah's Responses. See also Exhibit E, Declarations of Jeff Nelson and Dale Weaver (Paducah); Shari Winstead (Hopkins); Dennis Gomer (Computer Consulting).

provided sample RFPs that had been in wide circulation for years and were completely vendor neutral.

The Schools and Computer Consulting disagree with SLD's apparent perception that providing vendor neutral, widely distributed sample RFPs equates to improper service provider involvement and a competitive bidding violation. There was no improper service provider involvement in the present case. The Schools complied with all known rules and guidance regarding competitive bidding for the services they sought, and SLD has not provided evidence of any actual rule violations.

SLD does not explain its rationale in reaching its decision by providing any evidence of how the sample RFP violated any competitive process. Rather, SLD creates a new policy – i.e., that the use of sample RFPs, even without actual proof of impermissible service provider involvement, indicate per se violations of the competitive bidding rules and justify denial of E-rate funding requests.

SLD is not empowered to make this policy, interpret any unclear rule promulgated by the FCC, or create the equivalent of new Program guidelines.<sup>46</sup> In addition, such a policy leads to confusing and unintended results when funding requests are denied based upon nothing more than similarities among applications or sharing of widely distributed sample RFPs; such as is the case of this Consolidated Appeal. Such activities are not tantamount to impermissible service provider involvement or violations of the competitive bidding rules. The SLD subjected the Schools to a rigorous and lengthy selective review process and PAIR review process and received information from the Schools about how they completed their applications and undertook competitive bidding for the services they sought. The SLD did not learn, nor have

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<sup>46</sup> See 47 C.F.R. § 54.702(c); *Changes to the Board of Directors of the Nat'l Exchange Carrier Ass'n, Inc.*, 13 FCC Rcd 25058, 25066-67 (1998).

they alleged, any specific facts that indicate that there was, in fact, impermissible service provider involvement. They have only alleged an unproved inference, “suggestion” or “indication” that providing a vendor neutral, widely distributed sample RFP equates to a competitive bid violation. An inference, “suggestion,” or “indication” of service provider involvement is not enough justification to deny applications for sorely needed E-rate funds.

Nor did Computer Consulting prepare and distribute RFPs on behalf of certain schools or participate in any manner, other than as a competitively neutral service provider, during the competitive bidding process. There is not one piece of evidence that the authorized representatives of any of the Schools ceded control in any way to Computer Consulting or to any other service provider pertaining to their E-rate funding requests. In fact, all of the Schools expressly stated in their PAIR responses and Declarations that there was “NO” service provider involvement in the competitive bidding process.<sup>47</sup> Therefore, SLD erred in its finding that there was any inappropriate service provider involvement by Computer Consulting.

Furthermore, unlike *MasterMind* and its progeny, the Schools did not delegate the task of disseminating information regarding the services requested to Computer Consulting. All of the Schools stated that they undertook their own competitive bidding process in good faith; complied with all federal, state, and local rules; and, considered all factors set forth under those rules.<sup>48</sup> Accordingly, the Schools conducted a fair and open competitive bidding process.

Unlike the applicants in the *MasterMind* line of cases, the School’s bidding process was wholly consistent with the public interest requirements underlying the integrity of the competitive bidding process. It is clear that the facts in this case simply do not support the

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<sup>47</sup> See Exhibit I, Hopkins PAIR Letter & Response; Exhibit F, Pattern Analysis Information Request FY2005 & Paducah’s Responses. See also Exhibit E, Declarations of Jeff Nelson and Dale Weaver (Paducah); Shari Winstead (Hopkins); Dennis Gomer (Computer Consulting).

<sup>48</sup> *Id.*

SLD's conclusion. Indeed the facts indicate just the opposite, that the Schools employees submitted the FCC Form 470s and drafted and posted the RFPs to the SLD wholly without involvement of any service provider. The Schools conducted a bid process in compliance with the E-rate competitive bid rules and were responsible for filling out their forms, preparing their RFPs, and answering and certifying questions in their selective reviews and PAIR responses.<sup>49</sup>

Moreover, the FCC clearly required SLD to demonstrate that a competitive bid violation occurred on a case-by-case (school-by-school) basis. In this case, SLD failed to demonstrate through factual findings that Computer Consulting was improperly involved in the competitive bidding process through: (1) signing the FCC Form 470, (2) acting as the point of contact on the FCC Form 470, (3) preparing and issuing a FCC Form 470 or RFP that was not competitively neutral, i.e., seeking products and services that only were tailored in favor of one provider; (4) receiving the proposals, (5) controlling information flowing from the applicant to other service providers, (6) assisting in the evaluation of the bids, (7) providing advice and assistance with respect to competitors' bids, and/or (8) receiving the applicant RFP prior to it being made available publicly.

SLD's attempt to create a nexus of service provider involvement fails. The holdings in the *MasterMind*, *Pattern Analysis Remand Order*, and *Caldwell Parish* cases cannot be used as a blunt instrument, or a bright line test, without regard to the individual facts of a case. To do so misses the essential point – that the spirit and letter of the competitive bidding process and rules were observed and the public interest was served by the bidding process undertaken by the Schools. The only fair and equitable result in these cases lies in overturning the SLD's decision and the funding of these applications.

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<sup>49</sup> *Id.*

## **VI. MOREOVER, COMPUTER CONSULTING'S ACTIONS DID NOT CONTRAVENE APPLICABLE GUIDELINES FOR PERMISSIBLE SERVICE PROVIDER INVOLVEMENT**

The SLD describes on its website what role a service provider can take without violating the FCC's and the SLD's competitive bidding rules.<sup>50</sup> For example, the SLD explains that service providers can communicate with an applicant so long as such communication is neutral and does not taint the competitive bidding process. A service provider can provide basic information regarding the E-rate Program to an applicant, and can assist with an applicant's RFPs so long as the assistance is neutral.<sup>51</sup> A service provider also can provide an applicant with technical assistance on the development of a technology plan, including information regarding products and services that are being furnished to the applicant.

The SLD explains on its website that a service provider cannot: (1) sign a Form 470 or 471 for an applicant; (2) be listed as a contact person on a Form 470; (3) act as a technology plan approver for an applicant; (4) prepare RFPs for an applicant; (5) provide or waive funding for an applicant's undiscounted portion of equipment and services obtained through the E-rate Program; (6) coerce or pressure an applicant to use a specific service provider; or, (7) interfere with or obstruct an applicant's competitive bidding process.<sup>52</sup> The SLD has not made any factual finding that Computer Consulting engaged in any of the foregoing prohibited conduct.

## **VII. CONCLUSION AND REQUEST FOR RELIEF**

Computer Consulting and the Schools respectfully request the Commission find that the SLD failed to meet its burden in establishing and proving as required by Commission Orders

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<sup>50</sup> USAC, "Step 5: Assist Applicants with Application Review," *available at* <http://www.universalservice.org/sl/providers/step05/>.

<sup>51</sup> USAC, "Step 1: Proper Service Provider Assistance to Applicants," *available at* <http://www.universalservice.org/sl/providers/step01/proper-service-provider-assistance.aspx>.

<sup>52</sup> USAC Website, "Step 1: Inappropriate Roles for Service Providers." Retrieved on April 25, 2011 from <http://www.universalservice.org/sl/providers/step01/inappropriate-roles-providers.aspx>.



that the Schools and Computer Consulting violated any Commission Order or rule. The Schools and Computer Consulting also respectfully request that the Commission find that the SLD improperly applied the pattern analysis procedures and, based on the evidence submitted, there has been no competitive bid rule violation. Furthermore, the Schools and Computer Consulting respectfully request the Commission to consider setting time limits requiring the SLD to issue FCDLs no more than one year after the filing of an FCC Form 471—not three to five years later—and requiring the SLD to decide an appeal within six months of receipt, because three to five years after an appeal is filed with the SLD is too long and very disruptive to the business operations of schools and service providers and to the FCC rules governing E-rate. Finally, Computer Consulting and the Schools request the Commission to remand the application to USAC with instructions to issue a revised FCDL funding the Schools FRNs at issue in this appeal no later than 60 days from the release date of the Commission’s order granting this appeal.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Dennis M. Gomer  
President  
Computer Consulting &  
Network Design, Inc.  
96 Cross Creek Farms Road  
Benton, Kentucky 42025  
(270) 527-9412

\_\_\_\_\_/s/\_\_\_\_\_  
Cynthia B. Schultz  
Ryan W. King  
Patton Boggs LLP  
2550 M Street NW  
Washington, DC 20037  
(202) 457-6000

*Counsel to Computer Consulting &  
Network Design, Inc.*  
(Service Provider to Paducah and  
Hopkins)

April 25, 2011

## CERTIFICATE OF SERVICE

I, Ryan W. King, certify on this 25th day of April, 2011, a copy of the foregoing Consolidated Request for Review has been served via electronic mail or first class mail, postage pre-paid, to the following:

Zac Katz  
Legal Advisor to Chairman Genachowski  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554  
[Zachary.Katz@fcc.gov](mailto:Zachary.Katz@fcc.gov)

Alexander Minard  
Legal Counsel to the Bureau Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554  
[Alexander.Minard@fcc.gov](mailto:Alexander.Minard@fcc.gov)

Gina Spade  
Deputy Division Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554  
[Gina.Spade@fcc.gov](mailto:Gina.Spade@fcc.gov)

Dennis Gomer  
Computer Consulting & Network Design, Inc.  
96 Cross Creek Farms Road  
Benton, KY 42025  
[dmgomer1@gmail.com](mailto:dmgomer1@gmail.com)

Dale Weaver  
Paducah Independent School District  
800 Caldwell St.  
Paducah, KY 42003  
[dale.weaver@paducah.kyschools.us](mailto:dale.weaver@paducah.kyschools.us)

Sharon Gillett  
Bureau Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554  
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Trent Harkrader  
Division Chief  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554  
[Trent dot Harkrader@fcc.gov](mailto:Trent dot Harkrader@fcc.gov)

Letter of Appeal  
Schools and Libraries Division-  
Correspondence Unit  
30 Lanidex Plaza West  
P.O. Box 685  
Parsippany, NJ 07054-0685  
[appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org)

Shari Winstead  
Hopkins County School District  
320 S. Seminary St.  
Madisonville, KY 42431  
[shari.winstead@Hopkins.kyschools.us](mailto:shari.winstead@Hopkins.kyschools.us)

\_\_\_\_\_/s/\_\_\_\_\_  
Ryan W. King

## **EXHIBITS**

- A. Funding Commitment Decision Letter for FY2007 (Paducah and Hopkins)
- B. Paducah COMADs for FY2005
- C. Administrator's Decision on Appeal – Funding Year 2005-2006 (Hopkins)
- D. Administrator's Decision on Appeal – Funding Year 2005-2006 (Huntingdon & Muhlenberg)
- E. Declarations of Jeff Nelson and Dale Weaver (Paducah); Shari Winstead (Hopkins); Dennis Gomer (Computer Consulting)
- F. Pattern Analysis Information Request FY2005 & Paducah's Responses
- G. Sample RFP
- H. Response to USAC Letter of November 4, 2009 to Dennis Gomer of Computer Consulting, dated December 11, 2009
- I. Hopkins PAIR Letter & Response

## **EXHIBIT A**

# USAC

Universal Service Administrative Company

Schools and Libraries Division

Correspondence Unit

30 Lanidex Plaza West

PO Box 685

Parsippany, NJ 07054-0685

00004

Dennis Gomer  
Computer Consulting & Network Design, Inc.  
96 Cross Creek Farms Road  
Benton, KY 42025



Schools and Libraries Division

**FUNDING COMMITMENT DECISION LETTER**  
(Funding Year 2007: 07/01/2007 - 06/30/2008)

February 24, 2011

Dennis Gomer  
Computer Consulting & Network Design, Inc.  
96 Cross Creek Farms Road  
Benton, KY 42025

**Re: Service Provider Name: Computer Consulting & Network Design, Inc.**  
**Service Provider Identification Number: 143020012**

Thank you for participating in the Schools and Libraries Program (Program) for Funding Year 2007. This letter is your notification of our decision(s) regarding applications that listed your company's Service Provider Identification Number (SPIN) as providing service(s) for which discounts are being sought.

**NEXT STEPS**

- File Form 473, Service Provider Annual Certification Form (SPAC), for the current Funding Year
- Work with your customer to provide appropriate invoicing to USAC
- File Form 498, Service Provider Information Form, if appropriate
- Invoice the SLD - Service Provider Invoice (Form 474) or Billed Entity Applicant Reimbursement (Form 472)

Please refer to the Funding Commitment Report(s) (Report) following this letter for specific funding request decisions and explanations. Each Report contains detailed information extracted from the applicant's Form 471. A guide that provides a definition for each line of the Report is available in the Reference Area of our website.

Once you have reviewed this letter, we urge you to contact your customers to establish any necessary arrangements regarding start of services, billing of discounts, and any other administrative details for implementation of discount services. As a reminder, only eligible services delivered in accordance with Federal Communications Commission (FCC) rules are eligible for these discounts.

**TO APPEAL THIS DECISION:**

If you wish to appeal a decision in this letter, your appeal must be received by USAC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) email address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
  - Appellant name,
  - Applicant or service provider name, if different from appellant,
  - Applicant Billed Entity Number (BEN) and Service Provider Identification Number (SPIN),
  - Form 471 Application Number as assigned by USAC,
  - "Funding Commitment Decision Letter for Funding Year 2007," AND
  - The exact text of the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.



4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by the decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.

5. Provide an authorized signature on your letter of appeal.

To submit your appeal to USAC by email, email to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 South Jefferson Road  
P. O. Box 902  
Whippany, New Jersey 07981

You have the option of filing an appeal with the SLD or directly with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

#### NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division  
Universal Service Administrative Company

# FUNDING COMMITMENT REPORT

Service Provider Name: Computer Consulting & Network Design, Inc.  
SPIN: 143020012  
Funding Year: 2007

Name of Billed Entity: PADUCAH INDEP SCHOOL DISTRICT  
Billed Entity Address: 800 CALDWELL STREET  
Billed Entity City: PADUCAH  
Billed Entity State: KY  
Billed Entity Zip Code: 42003  
Billed Entity Number: 128941  
Contact Person's Name: JEFF NELSON  
Preferred Mode of Contact: EMAIL  
Contact Information: jeff.nelson@paducah.kyschools.us  
Form 471 Application Number: 547024  
Funding Request Number: 1510189  
Funding Status: Not Funded  
Category of Service: Basic Maintenance of Internal Connection  
Form 470 Application Number: 363760000525571  
Contract Number: N/A  
Billing Account Number: N/A  
Service Start Date: 07/01/2007  
Contract Expiration Date: 06/30/2008  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$8,515.44  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$.00  
Pre-Discount Amount: \$8,515.44  
Applicant's Discount Percentage Approved by SLD: 82%  
Funding Commitment Decision: \$.00 - Bidding Violation  
Funding Commitment Decision Explanation: USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the FRN is denied.

FCDL Date: 02/24/2011

Wave Number: 80V

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2011



# FUNDING COMMITMENT REPORT

Service Provider Name: Computer Consulting & Network Design, Inc.  
SPIN: 143020012  
Funding Year: 2007

Name of Billed Entity: HOPKINS COUNTY SCHOOL DISTRICT  
Billed Entity Address: 320 S SEMINARY ST  
Billed Entity City: MADISONVILLE  
Billed Entity State: KY  
Billed Entity Zip Code: 42431  
Billed Entity Number: 129009  
Contact Person's Name: Shari Winstead  
Preferred Mode of Contact: EMAIL  
Contact Information: shari.winstead@hopkins.kyschools.us  
Form 471 Application Number: 555730  
Funding Request Number: 1532841  
Funding Status: Not Funded  
Category of Service: Basic Maintenance of Internal Connection  
Site Identifier: 21 02860 01586  
Form 470 Application Number: 986730000557521  
Contract Number: N/A  
Billing Account Number: 270-825-6000  
Service Start Date: 07/01/2007  
Contract Expiration Date: 06/30/2008  
Number of Months Recurring Service Provided in Funding Year: 12  
Annual Pre-Discount Amount for Eligible Recurring Charges: \$12,000.00  
Annual Pre-Discount Amount for Eligible Non-Recurring Charges: \$ .00  
Pre-Discount Amount: \$12,000.00

Applicant's Discount Percentage Approved by SLD: 90%

Funding Commitment Decision: \$ .00 - Bidding Violation

Funding Commitment Decision Explanation: MR1: The Contract Expiration Date was changed from September 30, 2010 to June 30, 2008 to agree with the applicant documentation. <<<<<<<> DR1: USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that an RFP sample was provided by Computer Consulting & Network Design. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the FRN is denied.

FCDL Date: 02/24/2011

Wave Number: 80V

Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2011

## **EXHIBIT B**

Dennis Gomer  
Computer Consulting & Network Design, Inc.  
96 Cross Creek Farms Road  
Benton, KY 42025

**Notification of Commitment Adjustment Letter**

**Funding Year 2005: July 1, 2005 - June 30, 2006**

February 28, 2011

Dennis Gomer  
Computer Consulting & Network Design, Inc.  
96 Cross Creek Farms Road  
Benton, KY 42025

Re: SPIN:	143020012
Service Provider Name:	Computer Consulting & Network Design, Inc.
Form 471 Application Number:	454894
Funding Year:	2005
FCC Registration Number:	
Applicant Name	PADUCAH INDEP SCHOOL DISTRICT
Billed Entity Number:	128941
Applicant Contact Person:	Jeff Nelson

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust the overall funding commitment. The purpose of this letter is to make the required adjustments to the funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the service provider is responsible for all or some of the program rule violations. Therefore, the service provider is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at [http://www.fcc.gov/debt\\_collection/faq.html](http://www.fcc.gov/debt_collection/faq.html).

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
  - Billed Entity Name,
  - Form 471 Application Number,
  - Billed Entity Number, and
  - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal. To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Rd.  
P. O. Box 902  
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the applicant for informational purposes. If USAC has determined the applicant is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the applicant detailing the necessary applicant action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or the applicant(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds the Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the service provider is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: Jeff Nelson  
PADUCAH INDEP SCHOOL DISTRICT

**Funding Commitment Adjustment Report**  
**Form 471 Application Number: 454894**

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Funding Request Number:	1251917
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	
Original Funding Commitment:	\$10,800.00
Commitment Adjustment Amount:	\$10,800.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$6,840.00
Funds to be Recovered from Service Provider:	\$6,840.00

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.

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Funding Request Number:	1251907
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	
Original Funding Commitment:	\$10,800.00
Commitment Adjustment Amount:	\$10,800.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$6,885.00
Funds to be Recovered from Service Provider:	\$6,885.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.



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Funding Request Number:	1251912
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	
Original Funding Commitment:	\$10,800.00
Commitment Adjustment Amount:	\$10,800.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$8,067.05
Funds to be Recovered from Service Provider:	\$8,067.05

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.

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Funding Request Number:	1251923
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	
Original Funding Commitment:	\$13,500.00
Commitment Adjustment Amount:	\$13,500.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$10,440.00
Funds to be Recovered from Service Provider:	\$10,440.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.

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Funding Request Number:	1251929
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS
Billing Account Number:	
Original Funding Commitment:	\$41,205.00
Commitment Adjustment Amount:	\$41,205.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$32,964.00
Funds to be Recovered from Service Provider:	\$32,964.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.

Dennis Gomer  
Computer Consulting & Network Design, Inc.  
96 Cross Creek Farms Road  
Benton, KY 42025



Schools & Libraries Division

Notification of Commitment Adjustment Letter

Funding Year 2005: July 1, 2005 - June 30, 2006

February 28, 2011

Dennis Gomer  
Computer Consulting & Network Design, Inc.  
96 Cross Creek Farms Road  
Benton, KY 42025

Re: SPIN: 143020012  
Service Provider Name: Computer Consulting & Network Design, Inc.  
Form 471 Application Number: 454836  
Funding Year: 2005  
FCC Registration Number:  
Applicant Name PADUCAH INDEP SCHOOL DISTRICT  
Billed Entity Number: 128941  
Applicant Contact Person: Jeff Nelson

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust the overall funding commitment. The purpose of this letter is to make the required adjustments to the funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the service provider is responsible for all or some of the program rule violations. Therefore, the service provider is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at [http://www.fcc.gov/debt\\_collection/faq.html](http://www.fcc.gov/debt_collection/faq.html).

TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
  - Billed Entity Name,
  - Form 471 Application Number,
  - Billed Entity Number, and
  - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.  
To submit your appeal to USAC by email, email your appeal to [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org). USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Rd.  
P. O. Box 902  
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to the applicant for informational purposes. If USAC has determined the applicant is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the applicant detailing the necessary applicant action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or the applicant(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds the Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the service provider is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: Jeff Nelson  
PADUCAH INDEP SCHOOL DISTRICT

**Funding Commitment Adjustment Report**  
**Form 471 Application Number: 454836**

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Funding Request Number:	1251573
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS MNT
Billing Account Number:	
Original Funding Commitment:	\$8,437.50
Commitment Adjustment Amount:	\$8,437.50
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$3,600.00
Funds to be Recovered from Service Provider:	\$3,600.00

**Funding Commitment Adjustment Explanation:**

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.



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Funding Request Number:	1251580
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS MNT
Billing Account Number:	
Original Funding Commitment:	\$10,125.00
Commitment Adjustment Amount:	\$10,125.00
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$4,982.94
Funds to be Recovered from Service Provider:	\$4,982.94

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.

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Funding Request Number:	1251590
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS MNT
Billing Account Number:	
Original Funding Commitment:	\$8,437.50
Commitment Adjustment Amount:	\$8,437.50
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$3,645.00
Funds to be Recovered from Service Provider:	\$3,645.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.

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Funding Request Number:	1251645
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS MNT
Billing Account Number:	
Original Funding Commitment:	\$11,812.50
Commitment Adjustment Amount:	\$11,812.50
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$6,120.00
Funds to be Recovered from Service Provider:	\$6,120.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.

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Funding Request Number:	1251651
Contract Number:	N/A
Services Ordered:	INTERNAL CONNECTIONS MNT
Billing Account Number:	
Original Funding Commitment:	\$38,437.50
Commitment Adjustment Amount:	\$38,437.50
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$3,116.00
Funds to be Recovered from Service Provider:	\$3,116.00

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. USACs Program Integrity Assurance review revealed similarities in Forms 470 and Request for Proposals (RFPs) for entities which have Computer Consulting & Network Design as a service provider on its Form(s) 471 application(s). USAC contacted applicants and explained that, for applicants who had chosen Computer Consulting & Network Design as their service provider, documents with striking similarities had been provided to USAC to support their funding requests. For each type of document, USAC asked each applicant to explain how they prepared each type of document, to provide any supporting documentation, and to specify the individual who prepared the relevant documents. In response to USACs questions, you stated that Computer Consulting & Network Design developed a sample RFP that was used as a starting point for the RFP that was used during the competitive bidding process. Computer Consulting & Network Design, a service provider you later selected to provide services, assisted with your competitive bidding process by providing you with a sample RFP. Program rules state that a service provider must not interfere with the applicants competitive bidding process or offer any incentive that would unfairly influence the outcome of such competition, such as providing assistance in completing forms, and an applicant should not have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition. Therefore, the commitment has been rescinded in full and USAC will seek recovery of any disbursed funds from the applicant and the service provider.

## **EXHIBIT C**

**Administrator's Decision on Appeal – Funding Year 2005-2006**

*Via US Postal Services*

March 11, 2011

Paul C. Besozzi  
Jennifer L. Richter  
Patton Boggs LLP  
2550 M Street, NW  
Washington, DC 20037-1350

Re: Applicant Name: HOPKINS COUNTY SCHOOL DISTRICT  
Billed Entity Number: 129009  
Form 471 Application Number: 465032  
Funding Request Number(s): 1278640, 1278648, 1278659, 1278696, 1278706  
Your Correspondence Dated: September 28, 2007

After review of its internal documentation and the documentation provided by Computer Consulting & Network Design, Inc. and the Hopkins County School District as part of this appeal, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2005 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC or Commission). If your appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1278640, 1278648, 1278659, 1278696, 1278706  
Decision on Appeal: **Approved**  
Explanation:

Pursuant to the Commission's directives in *In the Matter of Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technologies San Antonio, TX, et al., Schools and Libraries Universal Service Support Mechanism*<sup>1</sup> and *In the Matter of Requests for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District, et al. Columbia, Louisiana Schools & Libraries Universal Service Support Mechanism*,<sup>2</sup> the SLD has determined that the Funding Request Numbers cited above should be approved for funding.

<sup>1</sup> CC Docket No. 02-6, 21 FCC Rcd 5348 (2006).

<sup>2</sup> CC Docket No. 02-6, 23 FCC Rcd 2784 (2008).

Since the Administrator's Decision on Appeal approves additional funding for this application, USAC will issue a Revised Funding Commitment Decision Letter (RFCDL) to you and the applicant. USAC will issue the RFCDL to you as soon as possible. If your appeal included Internal Connections at a discount level that has not yet been approved for funding, an RFCDL will be issued for those funding requests once USAC determines if there will be sufficient funds to make commitments at your discount level. The RFCDL will inform you of the precise dollar value of your approved funding request(s). As you await the RFCDL, you may share this Administrator's Decision on Appeal with the applicant.

If the original FCDL approved funding in part for the services covered by this appeal, the 120 day deadline for filing Forms 486 is determined based on the date of the original FCDL that approved funding for the request(s). However, if the original FCDL denied funding for the services covered by this appeal, Forms 486 cannot be filed until you have received your RFCDL.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Shari Winstead  
Director of Technology  
Hopkins County School District  
320 South Seminary Street  
Madisonville, KY 42431

**Administrator's Decision on Appeal – Funding Year 2005-2006**

*Via US Postal Services*

March 11, 2011

Paul C. Besozzi  
Jennifer L. Richter  
Patton Boggs LLP  
2550 M Street, NW  
Washington, DC 20037-1350

Re: Applicant Name: HOPKINS COUNTY SCHOOL DISTRICT  
Billed Entity Number: 129009  
Form 471 Application Number: 452329  
Funding Request Number(s): 1299504, 1299680, 1299719  
Your Correspondence Dated: September 28, 2007

After review of its internal documentation and the documentation provided by Computer Consulting & Network Design, Inc. and the Hopkins County School District as part of this appeal, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2005 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC or Commission). If your appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1299504, 1299680, 1299719  
Decision on Appeal: **Approved**  
Explanation:

Pursuant to the Commission's directives in *In the Matter of Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technologies San Antonio, TX, et al., Schools and Libraries Universal Service Support Mechanism*<sup>1</sup> and *In the Matter of Requests for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District, et al. Columbia, Louisiana Schools & Libraries Universal Service Support Mechanism*,<sup>2</sup> the SLD has determined that the Funding Request Numbers cited above should be approved for funding.

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<sup>2</sup> CC Docket No. 02-6, 23 FCC Rcd 2784 (2008).



Since the Administrator's Decision on Appeal approves additional funding for this application, USAC will issue a Revised Funding Commitment Decision Letter (RFCDL) to you and the applicant. USAC will issue the RFCDL to you as soon as possible. If your appeal included Internal Connections at a discount level that has not yet been approved for funding, an RFCDL will be issued for those funding requests once USAC determines if there will be sufficient funds to make commitments at your discount level. The RFCDL will inform you of the precise dollar value of your approved funding request(s). As you await the RFCDL, you may share this Administrator's Decision on Appeal with the applicant.

If the original FCDL approved funding in part for the services covered by this appeal, the 120 day deadline for filing Forms 486 is determined based on the date of the original FCDL that approved funding for the request(s). However, if the original FCDL denied funding for the services covered by this appeal, Forms 486 cannot be filed until you have received your RFCDL.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Shari Winstead  
Director of Technology  
Hopkins County School District  
320 South Seminary Street  
Madisonville, KY 42431

## **EXHIBIT D**

**Administrator's Decision on Appeal – Funding Year 2005-2006**

*Via US Postal Services*

March 11, 2011

Paul C. Besozzi  
Jennifer L. Richter  
Patton Boggs LLP  
2550 M Street, NW  
Washington, DC 20037-1350

Re: Applicant Name: HUNTINGDON SPECIAL SCHOOL DIST  
Billed Entity Number: 128478  
Form 471 Application Number: 464272  
Funding Request Number(s): 1276400  
Your Correspondence Dated: September 28, 2007

The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) issues this Administrator's Decision on Appeal with respect to your appeal of USAC's Funding Year 2005 Funding Commitment Decision Letter for the Application Number indicated above. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC or Commission). If your appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1276400  
Decision on Appeal: **Canceled**  
Explanation:

Pursuant to the direction of the Huntingdon Special School District (HSSD) on October 30, 2007, the Funding Request Numbers (FRNs) cited above were canceled during SLD review of this appeal. As HSSD has formally requested the cancellation of its FRNs associated with Computer Consulting & Network Design, Inc. (CC&ND), CC&ND's appeal is rendered moot.

For appeals that have been denied, partially approved, dismissed or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. Information on filing appeals is available at the following location on USAC's website: <http://www.usac.org/sl/about/appeals/default.aspx>.

We also thank you for your continued support, patience and cooperation during this appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Dr. Steve Peery, Director of Technology  
Huntingdon Special School District  
585 High Street  
Huntingdon, TN 38344-0648

**Administrator's Decision on Appeal – Funding Year 2005-2006**

*Via US Postal Service*

March 11, 2011

Paul C. Besozzi  
Jennifer L. Richter  
Patton Boggs LLP  
2550 M Street, NW  
Washington, DC 20037-1350

Re: Applicant Name: MUHLENBERG COUNTY SCHOOL DIST  
Billed Entity Number: 128998  
Form 471 Application Number: 452144  
Funding Request Number(s): 1293729, 1293781, 1293846, 1293856, 1293892,  
1293904, 1293915  
Your Correspondence Dated: September 28, 2007

The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) issues this Administrator's Decision on Appeal with respect to your appeal of USAC's Funding Year 2005 Funding Commitment Decision Letter for the Application Number indicated above. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC or Commission). If your appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1293729, 1293781, 1293846, 1293856, 1293892,  
1293904, 1293915

Decision on Appeal: **Canceled**  
Explanation:

Pursuant to the direction of the Muhlenberg County School District (MCSD) on February 1, 2011, the Funding Request Numbers (FRNs) cited above were canceled during SLD review of this appeal. As MCSD has formally requested the cancelation of its FRNs associated with Computer Consulting & Network Design, Inc. (CC&ND), CC&ND's appeal is rendered moot.

For appeals that have been denied, partially approved, dismissed or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. Information on filing appeals is available at the following location on USAC's website: <http://www.usac.org/sl/about/appeals/default.aspx>.

We also thank you for your continued support, patience and cooperation during this appeal process.

Schools and Libraries Division  
Universal Service Administrative Company

cc: Chad Wells  
District Technology Coordinator  
Muhlenberg County School District  
510 West Main  
Powderly, KY 42345

## **EXHIBIT E**

**DECLARATION OF JEFF NELSON**  
**PADUCAH INDEPENDENT SCHOOL DISTRICT**

1. My name is Jeff Nelson. I am the former Director of Information Technologies ("Director") for Paducah Independent School District ("Paducah"). I held the position of Director from 1993 to 2008, at which time I retired from Paducah.
2. Paducah includes six schools and serves approximately 3,000 students.
3. Since 2008, I have served as President of an information technology ("IT") consulting company called Fox Run Technologies ("Fox Run"). As President of Fox Run, I have provided IT consulting services to Paducah for Funding Years ("FY") 2009, 2010, and 2011.
4. I began working in the IT field in 1988 for Computer Learning and Resource Center as owner/senior trainer.
5. I am proud that since Paducah began receiving Universal Service Fund ("USF") discounts in 1998, it has always operated an open and competitive bidding process and complied with Federal Communications Commission ("FCC"), Universal Service Administrative Company ("USAC"), and state requirements.
6. As Director, I completed and posted Paducah's FCC Form 470, File No. 363760000525571 ("Form 470"). Form 470 was posted from a computer located at Paducah, and no service provider employees or consultants assisted in the completion or posting of the Form 470.
7. Paducah received a Pattern Analysis Information Request FY2005 letter ("PAIR Letter") from the Schools and Libraries Division ("SLD") of USAC. I timely prepared and submitted Paducah's response to the PAIR Letter and completed the PAIR certificate.
8. As told to USAC in 2007, Paducah uses a similar Form 470 Applicant Form Identifier for all E-rate forms. The identifier begins with the FY, followed by a hyphen, followed by the SLD form number, followed by a hyphen, followed by a unique identifier if more than one form 470 is filed in a given funding year (as was the case in FY2005) (ex: FY2005-470-A).
9. As told to USAC in 2007, I was responsible for the statements in Blocks 13a and 13b of the Form 470. The statement, "The Paducah Independent School District adheres to state model procurement law and all other state and local laws" was recommended to school districts by the Kentucky Department of Education. FY2004 was the first year that the form 470 specifically included language addressing the voluntary extensions of multi-year contracts. In FY2004, Paducah was bidding multi-year contracts for long distance service, cellular phone service, and high-speed digital service. In the form 470 that was posted for those services, Paducah included the statement: "Paducah Independent School District intends to enter into multi-year contracts for each of the RFPs referenced in this form 470. Each contract will be for 3 to 5 years in duration as

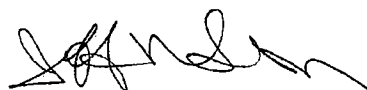


referenced in each RFP.” (FCC Form 470, File No. 261640000482473). I used the same language in the Form 470 for FY 2005. I can find no correspondence or other communications from 2003 that indicate that any individual or organization recommended the specific language to me.

10. Over the years, I have provided copies of Paducah’s Requests for Proposal (“RFPs”) to other school districts and have, in turn, received copies of RFPs from other districts. In fact, I have used a listserv maintained by the University of Kentucky, the Kentucky District Technology Coordinator’s (KYDTC) listserv, over which it is a common practice for IT professionals from various school districts to ask for and receive copies of RFPs from each other.
11. All of Paducah’s RFPs have used basically the same format and wording for many years.
12. In December 2003, in preparation for filing for FY2004, I requested sample RFPs for cellular phone service, long distance phone service, and outsourced network maintenance from Computer Consulting & Network Design, Inc. (“Computer Consulting”). The RFPs provided to Paducah by Computer Consulting were all RFPs from other school districts and were in public circulation. Computer Consulting never provided an RFP that was tailored to Paducah.
13. Paducah chose not to bid for network maintenance at that time since the district still had one year remaining on a previous multi-year contract.
14. For FY2005, Paducah issued an RFP for Basic Network Maintenance and used a sample RFP provided by Computer Consulting as a starting point in drafting the district’s Basic Network Maintenance RFP.
15. The sample RFP provided by Computer Consulting was a copy of an RFP that was issued by Huntingdon Special School District a few years before (“Huntingdon RFP”). At the time it was provided to Paducah, this exact same Huntingdon RFP was available to the public and I could have just as easily obtained a copy of it without the assistance of Computer Consulting.
16. I was the only individual that worked on preparing the Basic Network Maintenance RFP. No one outside of the district assisted or was involved in the preparation of the RFP.
17. The only other time that Computer Consulting provided Paducah with an RFP was in 1999 and that RFP related to a telecommunications system. This is totally irrelevant to the situation at hand because Computer Consulting has never provided telecommunications systems to Paducah under the E-rate program.
18. While I was Director, Paducah received three Selective Review Information Requests (SRIMs) from SLD (October 2006, August 2007, and September 2008). In all cases Paducah provided substantial evidence demonstrating compliance with applicable federal, USAC, and state requirements.
19. Nonetheless, these overly burdensome, unnecessary, and duplicative requests resulted in a significant waste of federal and state funds.

20. I personally spent in excess of 100 hours in total responding to these three SRIMs. At the time, Paducah's technology department consisted of me and one technician and, therefore, the time taken to respond to the SRIMs significantly detracted from our ability to serve the technology needs of Paducah, its schools, and its students.
21. Paducah also was the subject of an audit by the accounting firm of Arthur Anderson in Year 1 of the E-rate program. As with the SRIMs, Paducah provided substantial evidence demonstrating compliance with all applicable requirements.
22. Paducah has never been made aware of any adverse finding resulting from an SRIM or audit.
23. I have reviewed the foregoing Consolidated Appeal and declare under penalty of perjury, that the facts stated with respect to Paducah are true and correct to the best of my knowledge and belief.

Executed on this 22 day of April, 2011.

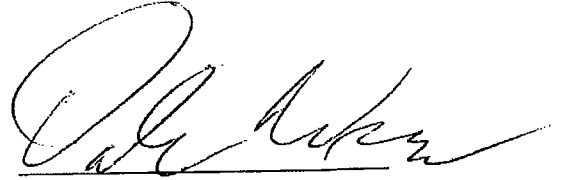
A handwritten signature in black ink, appearing to read "Jeff Nelson", written over a horizontal line.

Name: Jeff Nelson

**DECLARATION OF DALE WEAVER**  
**PADUCAH INDEPENDENT SCHOOL DISTRICT**

1. My name is Dale Weaver. I am currently the Director of Information Technologies ("Director") for Paducah Independent School District ("Paducah"). I have held this position since 2008, when Jeff Nelson retired. I began working for Paducah in 2008 as a Network Administrator.
2. My career in the information technology ("IT") field began in 1998 when I began working in IT management for a company called Lawson Data Networking.
3. In 2001, I went to work for Livingston County School District as their IT Administrator. I ran their IT department until 2008 – at which time I joined Paducah.
4. As Director, I oversee IT procurement and the competitive bidding process for Paducah, including filing all related forms and preparing Requests for Proposal ("RFPs").
5. Paducah always operates an open and competitive bidding process and complies with Federal Communications Commission ("FCC"), Universal Service Administrative Company ("USAC"), and state requirements.
6. In my opinion, the Request for Proposal ("RFP") for Huntingdon Special School District that Paducah received from Computer Consulting & Network Design, Inc. ("Computer Consulting") (and which is discussed in the declaration of Jeff Nelson), was an industry standard RFP and provided no support or advantage to one service provider or another.
7. Similarly, Paducah's FY2005 RFP for Basic Network Maintenance was an industry standard RFP and provided no support or advantage to one service provider or another.
8. I have witnessed first hand the significant disruption caused to Paducah, its schools, and students as the result of USAC's repeated and unwarranted delay in granting Paducah's requests for funding under the E-rate program.
9. The denials of funding for FY2006 and FY2007 have made it difficult to fulfill Paducah's Technology Plan, budget for new equipment, or otherwise plan projects that would improve Paducah's IT infrastructure and capabilities because much of the funding for these projects comes from the E-rate program.
10. Despite USAC's various inquiries, Paducah has never violated any FCC, USAC or state competitive bidding requirements.
11. I have reviewed the foregoing Consolidated Appeal and declare under penalty of perjury, that the facts stated with respect to Paducah are true and correct to the best of my knowledge and belief.

Executed on this 22 day of April, 2011.

A handwritten signature in black ink, appearing to read "Dale Weaver", written over a horizontal line.

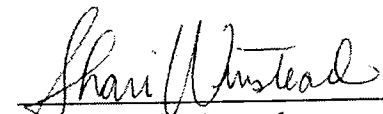
Name: Dale Weaver

**DECLARATION OF SHARI WINSTEAD**  
**HOPKINS COUNTY SCHOOL DISTRICT**

1. My name is Shari Winstead. I am the District of Technology for the Hopkins County School District ("Hopkins").
2. Hopkins is committed to complying with the Federal Communications Commission and Universal Service Administrative Company ("USAC") requirements in order to obtain E-rate Program funding.
3. Hopkins's FCC Form 470, File No. 479060000494093 ("Form 470") was completed and submitted by me on January 6, 2004 from my personal workstation at the Hopkins Board of Education office at 320 South Seminary Street, Madisonville, Kentucky.
4. Hopkins a Pattern Analysis Information Request FY2005 letter ("PAIR Letter") from the Schools and Libraries Division ("SLD") of USAC. I timely prepared and submitted Hopkins's response to the PAIR Letter and completed the PAIR certificate.
5. By Funding Commitment Decision Letter dated July 30, 2007, Hopkins's request for E-rate funding for FY 2005 was denied due to striking similarities with other funding requests and Hopkins' inability to explain the similarities between its Form 470 and RFP and that of another unnamed applicant.
6. The SLD concluded that Hopkins was unable to prove that it did not receive impermissible assistance from Computer Consulting & Network Design, Inc. ("Computer Consulting") during the competitive bidding process so Hopkins' funding request was denied.
7. I never received any information from USAC explaining the similarities or providing examples of similar language found in other applications.
8. As explained in my response to the PAIR Letter, I am familiar with the competitive bidding process to obtain E-rate eligible services and did not use service providers or anyone else outside of Hopkins to complete the Form 470.
9. The Form 470 was prepared and posted by me in accordance with Federal Communications Commission rules and USAC competitive bidding process guidance.
10. Hopkins has used the Block 12 statement answering the question if there are any state or local procurement laws that apply to the competitive bidding process, in its Form 470 since long before I became the Director of Technology.
11. Hopkins' Block 13 statement for multi-year contracts including a range of years is standard language.
12. Hopkins receives general statements such as those in Blocks 12 and 13 of Form 470, from general E-rate training sessions and school district purchasing guidelines. These statements are designed to ensure that Hopkins follows state, local, and school district model procurement laws.

13. Hopkins did not surrender control to Computer Consulting or any other service provider during the competitive bidding process.
14. The Hopkins FY2004 RFP ("Hopkins RFP") for Communications Network Installation and Maintenance Services was prepared by me. I am solely responsible for the preparation of Hopkins' RFP.
15. Hopkins' RFP was not based on a template. I prepared the Hopkins RFP using samples I had from previous filings, Internet research, and information shared from other districts. It is not uncommon for districts to share RFPs and tailor them to meet their specific needs.
16. Hopkins and other school districts sometimes share documents such as RFPs. This happens frequently in the educational profession since schools are faced with many similar purchases. Schools regularly ask each other for sample RFPs and other documents, which are then tailored to meet a school's specific needs.
17. Hopkins's RFP contains the following sections: Introduction, RFP Instructions, Vendor Background, and Service Requirements and Pricing.
18. The RFP Instructions section is separated into the following subsections: Completing the RFP; Format, Due Date; Contract; Confidentiality; Selection Process; and Disclaimer.
19. The Vendor Background section is separated into the following subsections: Company Information and References.
20. The services listed in the Service Requirements and Pricing section of Hopkins's RFP are determined by Hopkins based on its Technology Plan.
21. All sections of the Hopkins RFP are vendor neutral and were prepared with no assistance from non-Hopkins employees.
22. No service provider or consultant participated in the competitive bid process or was responsible for drafting or preparing any responses that pertained to Hopkins' competitive bid process.
23. I have reviewed the foregoing Consolidated Appeal and declare under penalty of perjury, that the facts stated with respect to Hopkins are true and correct to the best of my knowledge and belief.

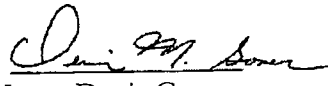
Executed on this 1<sup>st</sup> day of October, 2007.

  
Name: Shari Winstead

**DECLARATION OF DENIS GOMER**  
**COMPUTER CONSULTING & NETWORK DESIGN, INC.**

I have reviewed the foregoing Consolidated Request for Review and declare under penalty of perjury, that the facts stated with respect to Computer Consulting & Network Design, Inc are true and correct to the best of my knowledge and belief.

Executed on this 25 day of April, 2011.

  
Name: Denis Gomer

## **EXHIBIT F**





**Universal Service Administrative Company**  
Schools & Libraries Division

CASE 2006-BEN# 128941

Date: 7/17/07  
To: Jeff Nelson  
Entity: PADUCAH INDEP SCHOOL DISTRICT  
Fax #: (270) 444-5607  
Sender: Michael Deusinger  
Phone: 973-581-6750  
Fax: 973-599-6515  
E-mail: mdeusin@sl.universalservice.org  
Subject: Pattern Analysis Information Request FY 2005

\*\*\* \*\*

This Pattern Analysis Information Request (PAIR) is related to FY 2006 Form 471 E-rate application # 502979. Our Program Integrity Assurance (PIA) review revealed Forms 470 and Request for Proposals (RFPs) as a service provider that share similarities with other billed entities' Forms 470 and RFPs. These similarities are prevalent in applicants citing Computer Consulting & Network Design as a service provider and requires us to seek additional information regarding the preparation of your Form 470 and RFP.

Enclosed please find a certification which must be signed by a person authorized to represent the entity and most knowledgeable about the information set forth in the responses to the PAIR. Submit the certification back to me, Mr. Michael Deusinger, with your responses to the PAIR.

You have **15 days** to respond to this request. Your response is due by the close of business 8/1/07. Please provide complete responses and documentation to the questions listed below. If the question(s) is not applicable, please explain why. It is important that you provide complete responses to ensure the timely review of your application. If you do not respond or provide incomplete responses, your funding request (FRNs) may be reduced or denied.

If the applicant's authorized representative completed the information in this document, please attach a *copy of the letter of agency or another agreement* between the applicant and the consultant authorizing them to act on the school or library's behalf. If you receive assistance outside of your organization in responding to this request, please indicate this in your reply. **Computer Consulting & Network Design should not be consulted in this matter.**

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

**Form 470 Submissions**

Program rules prohibit service providers from participating in the development, completion and posting of the Form 470. We have determined that Forms 470 cited by Computer Consulting & Network Design entities share similarities, which implies that Computer Consulting participated in

the completion and/or posting of your entity's Form 470. The similarities present are a similar Applicant Form Identifier naming convention, similar statements in Blocks 13a and 13b, and an indication that an RFP was used in the Competitive Bidding process.

1. Please provide the name, title and employer of all of the individuals who filled out and submitted (i.e., mailed or posted the Form 470 on the Schools and Libraries website) Form 470# 363760000525571. Also provide those individuals' contact information. If they are not an employee of your organization, how are they affiliated with your entity and why were they selected to complete or post your Form 470?

Jeff Nelson  
Director of Information Technologies  
Paducah Independent School District  
800 Caldwell St.  
Paducah, KY 42003  
(270) 444-5600  
Jeff.Nelson@paducah.kyschools.us

2. Please provide the specific location from which the Form 470# 363760000525571 was filed and submitted. If the Form 470 was not posted from your organization's location, please explain why.

Filed electronically from a computer located at:  
Paducah Independent School District  
800 Caldwell St.  
Paducah, KY 42003

3. If a service provider employee assisted in the completion and/or posting of Form 470# 363760000525571, please provide the name and title of the Service Provider's employee and describe the assistance. Please also provide that individual's contact information. Explain why you selected them to assist your organization with completing or posting your Form 470. To the best of your knowledge, explain whether the service provider was aware that an employee assisted with the completion and/or posting of your entity's Form 470.

No employee of the service provider assisted in the completion or posting of Form 470 #363760000525571.

4. If a consultant assisted in the completion and/or posting of Form 470# 363760000525571, please provide the name and contact information for the consultant. Please also provide the consulting agreement, Letter of Agency, or other agreement that was in place at the time the Form 470 was posted.

No consultant assisted in the completion or posting of Form 470 #363760000525571.

5. Please explain the process your entity used to determine the Form 470 Applicant Form Identifier, including an indication of the individual responsible for the Applicant Form Identifier used.

Jeff Nelson (see above) is the individual responsible for the Applicant Form Identifier used. We use a similar pattern on all eRate forms. The identifier begins with the Funding Year (FY2005 in the 470 under discussion), followed by a hyphen, followed by the SLD Form Number (470), followed by a hyphen, followed by a unique identifier if more than one 470 is filed in a given funding year (as was the case in this FY); FY2005-470-A.

6. Please explain the process your entity used to develop the statements present in Blocks 13a and 13b of the Form 470, including an indication of the individual responsible for the

statements.

Jeff Nelson (see above) was the person responsible for the statements.

The statement, "The Paducah Independent School District adheres to state model procurement law and all other state and local laws" was recommended to school districts by the Kentucky Department of Education.

Funding Year 2004 was the first year that the form 470 specifically included language addressing the voluntary extensions of multi-year contracts. In Funding Year 2004, we were bidding multi-year contracts for long distance service, cellular phone service, and high-speed digital service. In the form 470 (FY2004, 261640000482473) that was posted for those services we included the statement; "Paducah Independent School District intends to enter into multi-year contracts for each of the RFPs referenced in this form 470. Each contract will be for 3 to 5 years in duration as referenced in each RFP." I used the same language in the form 470 that is under review. I can find no correspondence or other communications from 2003 that indicates that any individual or organization recommended the specific language to me.

### **Request for Proposal (RFP)**

1. In response to our FY 2006 Selective Review Information Request (SRIR), you provided a Request for Proposal (RFP) that was used in your competitive bidding procurement process. Your Request for Proposal is similar to other billed entity RFPs. The similarities include similar/identical format and wording. Please explain why these similarities exist. Provide documentation, if available, that will support your response (e.g., needs assessment, memorandums).

I have over the years provided copies of my RFPs to other school districts and have, in turn, received copies of RFPs from other districts. If there are similarities that could be the reason. The Paducah Independent School District has used a virtually identical format and wording for RFPs for a variety of products and services as far back as 1999.

2. Please provide the name, title and employer of all of the individuals, both within and outside of the School District, that helped in the preparation of your RFP. If you had assistance in preparing your RFP outside of the School District please indicate who provided such assistance (and indicate whom they represent), how they became involved in the process, and their level of involvement in the process.

The only individual that worked on preparing the RFP was Jeff Nelson, Director of Information Technologies for the Paducah Independent School District. No one outside of the district assisted or was involved in the preparation of the RFP.

3. Please indicate if your RFP was based on a template RFP that was provided to the School District. If your RFP was based on a template RFP please cite the organization responsible for the origination of the template RFP.

All of our district's RFPs have used basically the same format and wording for many years. In February of 1999, the district contracted with Computer Consulting and Network Design to manage the acquisition and installation of new telephone systems for the district. As part of that contract CC & ND wrote the bid specifications for the phone system RFP. We have used that original phone system RFP as a model (or template) for all subsequent RFPs, including the one that is being reviewed. I have attached a copy of that original phone system RFP.

In December 2003, in preparation for filing for Funding Year 2004, I requested sample

RFPs for Cellular Phone Service, Long Distance Phone Service, and Outsourced Network Maintenance from Computer Consulting and Network Design. I have attached a copy of that sample Network Maintenance RFP. We chose not to bid network maintenance at that time since we still had one year remaining on a previous multi-year contract. The following year, for Funding Year 2005, was when we issued the RFP for Basic Network Maintenance that is being reviewed. In developing that RFP, we used the sample RFP that CC&ND had provided us the year before as a starting point for our RFP.

If you have any questions, please contact me at 973-581-6750. Thank you.

**Michael Deusinger**  
Program Compliance

PATTERN ANALYSIS CERTIFICATION	
<p>I certify that I am authorized to make the representations set forth in the responses to the Pattern Analysis Information Request on behalf of Paducah Independent School District, the entity represented on and responding to the Pattern Analysis Information Request, and am the most knowledgeable person with regard to the information set forth therein. I certify that the responses and supporting documentation to the Pattern Analysis Information Request are true and correct to the best of my knowledge, information and belief. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I acknowledge that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.</p> <p>I declare under penalty of perjury that the foregoing is true and correct. Executed on 23rd day of July, 2007 at Paducah, Kentucky.</p>	
Signature: See attached scan	Date: 07/24/2007
Print Name: Jeff Nelson	Title: <u>Director of Information Technologies</u>
Employer Paducah Independent School District	
Telephone Number: (270) 444-5600	Fax Number: (270) 444-5607
Email Address: Jeff.Nelson@paducah.kyschools.us	
Address: 800 Caldwell St., Paducah, KY 42003	

## **EXHIBIT G**

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## **I. Introduction**

Huntingdon Special School District is soliciting bids from reputable service providers. The selected vendor will be our primary source for the following:

- Installation and configuration services for Universal Service Fund eligible products.
- Maintenance of Universal Service Fund-approved purchased and installed equipment and software.
- System improvements and upgrades to the Universal Service Fund-approved installed equipment and software as necessary.

Please note that the term Universal Service Fund (hereafter to be called USF or E-Rate) is used throughout this RFP for defining all eligible products and services for which school systems can receive discounts from the providers of these products and services.



## **II. RFP Instructions**

### **A. *Completing the RFP***

Please provide pricing in the form of hourly rates for each of the services listed in the RFP that your company wishes to bid on. It is not required that you bid on every item listed in the RFP.

Quoted prices must be planned to be effective starting July 1, 2004 and extend through September 30, 2005, and Huntingdon Special School District retains the right to extend this contract for up to three more years in one year increments from July 1, 2005 if applicable.

The successful vendor will be required to participate in the Universal Service Fund and will provide the appropriate discounts if applicable to this project. If Huntingdon Special School District does not receive USF funding for this project, Huntingdon Special School District may chose not to purchase these services.

### **B. *Format, Due Date***

Proposals are due **no later than 1 p.m. CST, January 7, 2004**. Late responses will not be considered. Submit responses to:

Mr. Danny Truett  
Superintendent  
Huntingdon Special School District  
585 High Street  
Huntingdon, TN 38358  
Phone (731) 986-2222  
Fax (731) 986-4365

All submitted proposals will be considered the property of the Huntingdon Special School District.

**Three (3) copies** of your completed proposal should be submitted.

Name one person to be the coordinator for your RFP response and for any clarification activities that might be necessary.

### **C. *Contract***

The proposal should include a contract for all proposed services. If the vendor does not wish to submit an actual contract with the proposal, due to different alternatives proposed and pending choices from those alternatives, a sample contract should be submitted with the proposal.

### **D. *Confidentiality***

All material submitted by Huntingdon Special School District must be treated as confidential and cannot used for any other purpose than the response to this RFP. Information submitted by any vendor will be considered confidential to Huntingdon Special School District and will not be used for any other purpose than evaluating vendor responses.

### **E. *Selection Process***

A number of factors will influence Huntingdon Special School District's decision in selecting the vendor. These factors include a technical evaluation based upon the vendor's ability to deliver these services in a timely manner.

Equally important is a vendor evaluation based upon vendor reputation, past performance with similar projects in the school district, service and support resources, knowledge of USF policies and procedures, etc.

Please note that Huntingdon Special School District will select the vendor based upon the best overall solution and value, and is not obligated to select the lowest price bidder. Huntingdon Special School District may select more than one vendor for these projects as well.

#### ***F. Disclaimer***

This RFP does not commit Huntingdon Special School District to any specific course of action. Huntingdon Special School District reserves the right to not select any vendor or purchase any goods or services resulting from this RFP.

### **III. Vendor Background**

#### **A. *Company Information***

1. List your company's legal name, address, and telephone number. Include parent company information if applicable.

#### **B. *References***

Provide a minimum of 3 references for customers with operations similar to ours that your company has worked with in the past two years. Include contact names, telephone numbers, and addresses.

## IV. Service Requirements and Pricing

The following are the USF-eligible categories for services. Please provide pricing for all services that you wish to bid on.

Product/Service Description	Hourly Costs
Ethernet Workgroup Switch Installation and Configuration	
Ethernet Backbone Switch Installation and Configuration	
Router Installation and Configuration	
CSU/DSU Installation and Configuration	
LAN Electronics Memory, Processor, and/or Disk Upgrades	
WAN Electronics Memory, Processor, and/or Disk Upgrades	
Analyze LAN Components for Preventative Maintenance, Problem Analysis, and Performance Tuning	
Analyze WAN Components for Preventative Maintenance, Problem Analysis, and Performance Tuning	
Provide WAN Troubleshooting for Telecommunications Problems (Router, CSU/DSU, Telephone Service Provider)	
Cabling System Evaluation, Analysis, and Troubleshooting	
Communications System Design and Engineering	
Communications System Project Management	
Documentation of Installed Network and Cabling Systems	
Video Distribution Systems Installation and Troubleshooting	
Wireless LAN Component Installation and Troubleshooting	

## **EXHIBIT H**

December 11, 2009

Jennifer L. Richter  
202-457-5666  
[jrichter@pattonboggs.com](mailto:jrichter@pattonboggs.com)

Via Electronic Mail/  
[jcercie@sl.universalservice.org](mailto:jcercie@sl.universalservice.org)

Ms. Jennifer Cerciello  
Manager - Special Compliance Review  
Schools and Libraries Division of USAC  
100 South Jefferson Road  
P.O. Box 902  
Whippany, New Jersey 07981

Dear Ms. Cerciello:

This letter is written in response to your letter of November 4, 2009 to Dennis Gomer of Computer Consulting & Network Design ("CCND").<sup>1</sup> We are pleased to provide you with this response, but we want to share two concerns with you. First, it is difficult to ascertain the applications to which your questions pertain beyond the questions related to FY2005, for which an appeal already is on file. This has made it somewhat difficult to produce adequate answers to your questions. If you require more information, then please provide more information so that CCND can fully respond.

Our second principal concern is that many of the questions in your letter, and allegations made, already were addressed in a 43 page appeal that was filed with USAC on September 28, 2007. That appeal remains pending after more than two years. Pursuant to Federal Communications Commission ("FCC") precedent, USAC is not permitted to try to allege new grounds for denials when USAC already has had its opportunity to review the record, denied the applications on all relevant grounds, and those denials were appealed.

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<sup>1</sup> Email from J. Cerciello, Universal Service Administrative Company ("USAC"), to C. Didden, Patton Boggs LLP, granting CCND an extension of time to respond to USAC's request to December 11, 2009.

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Beginning in 2006, with the *Academy of Careers* order, USAC has been charged with issuing awards or denials based on a complete review and analysis.<sup>2</sup> “In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it, or, if denying the application, provide the applicant with any and all grounds for denial.”<sup>3</sup> In response, to all of USAC’s reasons for denial to CCND and the schools, which were required by the FCC to be complete, a lengthy appeal was filed. USAC must now act upon the appeal. The time to review matters related to FY2005 was at an end when the denials were issued.

USAC should note that on February 22, 2008, after the FY2005 appeal was filed with USAC, the FCC decided a case that has a very similar fact pattern. In the *Caldwell Parish* case, USAC had before it multiple E-rate applications that it denied based on a pattern analysis and similarities across the applications. USAC did not, as here, allege, any specific competitive bidding violations with respect to each and every applicant, just allegations of possible impermissible service provider involvement based upon the pattern analysis. USAC also alleged, as it does here, that the applicant did not prove that a service provider was not involved in the competitive bidding process. Per the FCC, the burden of proving a rule violation, the burden of proving improper service provider involvement, is on USAC, not the applicant. The FCC found that USAC improperly denied the requests for funding “without sufficiently examining whether the Commission’s rules actually were violated due to improper service provider involvement in the applicants’ competitive bidding processes.”<sup>4</sup> The Commission also found that “any perceived similarities on the applicants’ FCC Forms 470 may not have been due to improper service provider involvement.”<sup>5</sup> The Commission went on to find that:

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<sup>2</sup> *Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technologies San Antonio, TX, et al. and Schools and Libraries Universal Service Support Mechanism*, Order, 21 FCC Rcd 5348, ¶¶ 1 & 7 (2006) (“Academy of Careers”).

<sup>3</sup> *Requests for Review of Decisions of the Universal Service Administrator by Caldwell Parish School District, et al. Columbia, Louisiana*, Order, 23 FCC Rcd 2784, ¶ 2 n.5 (2008) (“Caldwell Parish”); *See also Requests for Review and Waiver of Decisions of the Universal Service Administrator by State of Arkansas, Department of Information Systems, Little Rock, Arkansas, et al.*; Order, 23 FCC Rcd 9373, ¶ 1 n.5 (2008), *Requests for Review of the Decision of the Universal Service Administrator by District of Columbia Public Schools*, Order, 23 FCC Rcd 15585, ¶ 7 n.39 (2008), *Review of Decisions of the Universal Service Administrator by Colegio Nuestra Senora del Carmen, Hatillo, Puerto Rico, et al.*, Order, 23 FCC Rcd 15568, ¶ 18 n.62, and *Request for Review of a Decision of the Universal Service Administrator by Albert Lea Area Schools, Albert Lea, Minnesota, et al.*, Order, 24 FCC Rcd 4533, ¶ 11, n.51 (2009).

<sup>4</sup> *Caldwell Parish*, ¶ 10.

<sup>5</sup> *Id.*, ¶ 13.

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the applicants provided evidence that there was no improper service provider involvement. Each applicant asserted by sworn statement and under penalty of perjury that [the service provider] did not participate in the competitive bidding process. In response to the PAIR letters, these eight applicants each identified school personnel as the persons involved with filling out and submitting the FCC Forms 470 and that all FCC Forms 470 were filed from the applicant's premises. Additionally, in their responses to the PAIR letters, each applicant stated that no one outside of its school district assisted with determining the types of services for which it would seek bids. In fact, each applicant described the decision-making structure employed by the school and identified the school board or school staff involved in making the final determination of the services requested and the vendor selected.<sup>6</sup>

Nearly identical facts are present here for FY2005, and it is all detailed in the appeal you have before you from September 28, 2007. Each of the applicants, Muhlenberg, Hopkins and Huntingdon, swore under penalty of perjury that CCND did not participate in the competitive bidding process and that the schools were responsible for filling out and submitting forms, and making decisions about services requested. In the *Caldwell Parish* case, the Commission found that the schools' own personnel were responsible for filling out and submitting the FCC Forms 470 and that a service provider was not involved in these tasks. Accordingly, the Commission found that there was no violation of the Commission's competitive bidding rules when completing and submitting their FCC Forms 470.<sup>7</sup> With one exception, which is under further appeal, the appeals were granted by the Commission and the funding was granted by USAC. We strongly suggest that USAC consider the FY2005 appeal and apply the decisions and policies rendered by the Commission in *Academy of Careers* and *Caldwell Parish*. USAC is then free to either grant the appeal or deny it. However, USAC must act based upon the record before it. USAC was required, as part of the denials, to allege all grounds for denial, and we presume USAC followed the FCC's directive. USAC cannot seek to generate additional reasons for denial at this time.

With respect to other pending pre-commitment applications, your letter does not identify any specific applications. Allegations are made but are not substantiated, nor are they correlated to any particular applications, which makes it difficult in many instances to provide you with useful answers. If you have specific questions about specific applications (not from FY2005), please re-engage with us. Nevertheless, CCND will attempt, to the best of its ability, to answer your questions.

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<sup>6</sup> *Caldwell Parish*, ¶13.

<sup>7</sup> *Id.*, ¶ 14.



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Before addressing your specific questions, it seems you may need some information about CCND. CCND is a communications systems consulting, design, project management, installation, systems integration, and systems support company that has been in business working primarily with the K-12 industry vertical since 1992, six years prior to implementation of the E-rate program. CCND provides many services to the K-12 school community, some of which are E-rate eligible and some that are not. CCND, like many businesses, does not exist solely to serve E-rate clients, and thus all aspects of its business are not required to, and do not, conform to the requirements of USAC or the E-rate program. In all dealing on E-rate matters, however, CCND is very aware of the FCC's rules and the program rules and makes all efforts to comply.

Because of CCND's extensive involvement and commitment to supporting the E-rate program (it has been actively involved in the E-rate program since it was a draft document in Congress and has been one of the champions of E-rate in the Commonwealth of Kentucky as well as the State of Tennessee), CCND is widely considered to have a good understanding of the program. CCND has been routinely invited to speak at state-sponsored E-rate training sessions and has provided training to applicants, E-rate consultants, and Service Providers with regard to the mechanisms for filling out the myriad of forms that are required for a successful E-rate funding approval. As the September 2007 appeal describes in detail, any CCND training and/or guidance has been vendor-neutral and has strictly been based on information provided to CCND from USAC's various information sources. Please refer to the FY2005 appeal for complete information.

Now to your specific questions/concerns:

1. *Please provide your response to each of the allegations, copied and pasted below for reference. Please provide any available documentation in support of your response.*

a. *Competitive bidding violations have occurred related to funding requests awarded to CCND.*

The FCC has made it USAC's burden to prove, based on evidence and facts and the record before it, that there have been actual rule violations, including competitive bidding violations. With respect to any funding requests that are pending before USAC presently, each of which must be judged by USAC on its own merits per FCC precedent, CCND is not aware of any rule violations or competitive bidding violations.

b. *CCND includes ineligible consulting fees in funding requests to USAC.*

Neither CCND, nor its customers, has ever included any consulting fees in funding requests to USAC. If you have questions about any specific charges or fees, please forward that information.

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- c. *Dennis Gomer tells applicants to hide their contracts for consulting services with him when Schools and Libraries Program auditors come.*

This allegation is false. Please provide verifiable evidence in the record that this occurred so that CCND can respond to it. CCND and the schools have done everything possible to be completely cooperative and provide whatever documentation USAC and/or school districts have requested.

- d. *A conflict of interest is present. Mr. Gomer is the owner of CC&ND but also is associated with applicants as a consultant.*

There is no conflict of interest. If USAC can prove, based upon the facts and applicable law, that there is a conflict of interest, please assert the facts, circumstances and applicable law so that CCND can respond to it. As described below, if there is any possibility that CCND might bid on a particular E-rate project, then CCND abstains from providing consulting services to the K-12 school about the requested product or service. CCND absolutely observes the program rules and is very conscious of any actions that could be viewed as a conflict of interest.

2. *Please explain why you seem to represent yourself as both a service provider and a consultant.*
- a. *Is this because you perform both roles for applicants where the aforementioned patterns in their documentation to USAC have been present?*
- i. *If yes, was there a conflict of interest in the entities' selection of CC&ND?*
  - ii. *If a conflict of interest was present, but you feel that no program rule violation occurred, please explain how the conflict was mitigated and provide information and documentation in support of your response.*
  - iii. *If you maintain that there was not a conflict of interest:*
    1. *Please explain how/why you believe that a conflict of interest did not occur related to those applicants funding requests with CC&ND.*
    2. *Please explain how is it possible that a fair and open competitive bid process occurred where consulting services were being provided by a service provider bidding on the services?*
- b. *Or, is this because you perform work as an IT Consultant but do not act as a Schools and Libraries Program consultant?*

CCND only bids on a specific set of projects defined as Internal Connections and Basic Maintenance Service, which generally includes installation and maintenance of switches, routers hubs and video distribution systems. CCND does not and has not ever provided consulting services, bid preparation and/or evaluation, Form 470 preparation, technology plan consulting, etc. for any contract for which CCND provided a bid. That would be a clear conflict of interest, and would be a violation of company ethics, morals, and legality.

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CCND has been hired to provide consulting services by K-12 school clients to provide guidance and clarification with regard to Telecommunications and Internet Access requirements. Since CCND does not bid on any of these products or services, it assists clients in navigating the myriad of technical rules, jargon, etc. with regard to these types of offerings.

For example, if a school district is looking for a fiber WAN project, which may be listed as either a Telecommunications or Internet Access project, that school district may contract with CCND for consulting services, design services, and bid preparation services such as writing an RFP, with the understanding that CCND will not in any way be bidding on the products or services.

Another example: A school district is looking to procure local and long distance telephone service, and requests assistance in writing the RFP for these services, evaluating the bid responses, and getting a recommendation as to how to proceed with the submittals. Once again, CCND would not in any way be bidding on these services as a service provider.

3. *If your answer to 2A is yes and you do act as a Schools and Libraries Program consultant, please describe the specific Schools & Libraries Program consulting services that CC&ND has performed, e.g.:*
- a. *provided technology plan development;*
  - b. *helped schools prepare or submit the Form 470;*
  - c. *developed network plans, technology strategies, or offered potential solutions prior to the school's submission of the FCC Form 470 for similar services;*
  - d. *assisted in RFP development;*
  - e. *evaluated telecommunications vendor responses and bids;*
  - f. *assisted in vendor selection;*
  - g. *filed Forms 471 and/or Item 21 Attachments for applicants;*
  - h. *provided Post-commitment Services, i.e. Filing of Appeals.*
  - i. *Any other consulting services (please specify).*
  - j. *Please describe the specific Schools & Libraries Program consulting services that CC&ND has performed, e.g.:*

CCND has provided Items d, e, and f for select districts for projects on which CCND did not bid. E-rate funds were never used to pay for the consulting services that CCND provided.

4. *Please provide a list of your clients who are Schools and Libraries Program participants for each funding year from for the following categories:*

- a. *Clients that use(d) CC&ND/Dennis Gomer as a Schools and Libraries Program consultant;*

West Kentucky Educational Cooperative  
Bradford Special School District

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- b. Clients that use(d) CCND/Dennis Gomer as both a service provider and as a Schools and Libraries Program consultant. For clients in this category, please specify which consulting services were provided to each entity.*

In 2004 CCND provided consulting services to Bradford Special School District regarding Telecommunications Services. In 2005 CCND bid as a service provider on an Internal Connections and Maintenance contract for Bradford.

- 5. For the applicant whose RFP states that you should be contacted for questions and provides your phone number, this is a violation akin to service provider contact information appearing on the applicant's FCC Form 470. This is because a potential bidder would see that another service provider has a significant role in the bid process. What is your response?*

CCND assumes you are asking about a cable and telephony project for Huntingdon School District. For this project, CCND provided two types of consulting services. CCND provided design services for the project two years prior to the school district actually bidding the project and asking for E-rate funds to pay for the project. The school anticipated asking for bids for the project outside of the E-rate program and Dennis Gomer was listed as a contact. The RFP for the project was written one year prior to the applicant applying for E-rate funds to help pay for the project. CCND never bid on the project as a service provider. This is not a Mastermind violation.<sup>8</sup> A Mastermind violation occurs when an applicant surrenders control of the competitive bidding process to a service provider that is also bidding for the contract with the applicant. CCND did not bid, as a service provider for the cable and telephony project proposed by Huntingdon.

- 6. Do you maintain that the statements made by the appellant are accurate, specifically, that you provided sample RFPs; provided FCC Form 470 suggested naming conventions; provided suggested SRIR vendor selection responses, etc., well prior to the FY 2004 bid process (since the FY 2005 FRNs under appeal rely on FY 2004 FCC Forms 470)?*

- a. If so, please provide details regarding the dates and locations of the training you provided as well as other documentation, e.g. agendas, training materials, etc.*

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<sup>8</sup> Request for Review of Decisions of the Universal Service Administrator by MasterMind Internet Services, Inc., Order, 16 FCC Rcd 4028 (2000) ("MasterMind").

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The statements made in the appeal are accurate and can be verified by the state E-rate coordinator for Kentucky. In the initial training sessions in 1998 with K-12 school districts, the state E-rate coordinator for Kentucky, Kim Duvall, provided some standard boilerplate nomenclature for Form 470 and Form 471 development that addressed naming conventions (such as 470-number-date-type) and information related to model procurement laws and procedures in Kentucky. In addition, Kentucky had several pre-existing contract arrangements with service providers and Kim provided this language to the potential applicants to make sure that the E-rate reviewers at that time could understand the unusual circumstances with Kentucky KETS contracts.

In those same sessions, CCND, who was not an E-rate Service Provider at that time but was very familiar with the program rules and procedures (which were still being developed at that time quite frankly), provided Bidding 101 training for the applicants. This training included how to provide for a technology budget for your project, how to advertise for a project, how to prepare an RFP or RFQ, how to receive responses, how to properly evaluate the responses (with at that time a slightly different rubric than is used today but just as effective), how to select a winning provider, how to get school board approval, and most importantly, how to get both parties to sign the contract to make it binding. CCND used several examples of RFP and contract types, with both products and services listed. CCND believes these templates are still around 11 years later, modified slightly, but in many cases still using the same fonts and formatting. All of this assistance was vendor neutral, as the FY2005 appeal discusses.

7. *Do you maintain that your consultant or consultant-like relationship with these applicants did not deter other service providers from bidding? Please explain.*

To CCND's knowledge, no other service providers were deterred from bidding. As required by all known rules, the bids that CCND responded to were posted for 28 days on the SLD web site for the entire country to see, the bids were advertised in the newspaper chosen by the school district, and in several cases pre-bid conferences were scheduled for any potential bidders to attend and voice their concerns/opinions, etc.

8. *USAC is concerned that your "helping" applicants with their competitive bid processes caused applicants to look more favorably upon your bids than they otherwise would have. Please provide a response related to this concern.*

CCND appreciates USAC's concerns, but USAC cannot deny funding based on "concerns" about possible bidding violations without actual proof of competitive bidding violations. As the FCC requires, only proof of actual bidding violations and rule violations can be used as a justification to deny funding.

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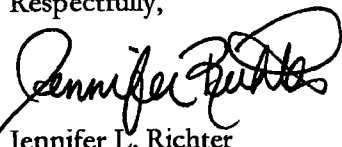
9. *FY 2008 pre-commitment applications with Wayne County and Paducah ISD have not shown the aforementioned patterns found in prior funding years. Is this because you have ceased acting as a consultant; because, subsequent to prior year pattern analysis, you have advised clients to individualize their forms; or, because the entities to the best of your knowledge elected to make those changes independently of you?*

CCND is pleased that the Wayne County and Paducah ISD applications meet with your requirements. Neither of these school districts uses CCND's consulting services. CCND believes each of these two school districts have new technology coordinators from FY2008.

In closing, we want to bring to your attention that Senator Mitch McConnell has been in touch with the FCC about funding delays related to CCND. USAC apparently informed the FCC that the CCND funding requests "have been approved and that payment was remitted to Computer Consulting." See the attached correspondence. Could you please look into this for us? It does not appear that USAC provided the correct information to the FCC. Perhaps there was a miscommunication that needs to be cleared up with the FCC and with Congress.

Thank you for your consideration of these responses. Please don't hesitate to contact us if we can provide additional information.

Respectfully,



Jennifer L. Richter  
Counsel to Computer Consulting & Network Design  
Chair, Technology and Communications Practice Group  
Patton Boggs, LLP

I certify that I am authorized to make the representations set forth in the responses to the Special Compliance Review inquiry on behalf of **Computer Consulting & Network Design, Inc.**, the entity represented on and responding to the Special Compliance Review inquiry, and am the most knowledgeable person with regard to the information set forth therein. I certify that the responses and supporting documentation to the Special Compliance Review inquiry are true and correct to the best of my knowledge, information and belief. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I acknowledge that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

I declare under penalty of perjury that the foregoing is true and correct. Executed on 11 day of DECEMBER, 2009 at BRENTON [city], KENTUCKY [state].

Signature	<u>Dennis M. Gomer</u>	Date	<u>12/11/2009</u>
Print Name	<u>DENNIS M. GOMER</u>	Title	<u>PRESIDENT</u>
Employer	<u>COMPUTER CONSULTING &amp; NETWORK DESIGN, INC.</u>		
Telephone Number	<u>270-527-9412</u>	Fax Number	<u>270-527-5101</u>
Email Address	<u>dmgomer@ccnd.net</u>		
Address	<u>94 CROSS CREEK FARMS ROAD</u> <u>BRENTON, KY 42025</u>		

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MITCH MCCONNELL  
KENTUCKY1-A RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1702  
(202) 224-2541

## United States Senate

REPUBLICAN LEADER  
COMMITTEES:  
AGRICULTURE  
APPROPRIATIONS  
RULES AND ADMINISTRATION

October 30, 2009

Mr. Dennis Gomer  
96 Cross Creek Farms Road  
Benton, Kentucky 42025-7202

Dear Mr. Gomer:

I am writing to follow up with you and share the letter that I received this week from the Federal Communications Commission (FCC) in response to my February correspondence on your behalf. As you will see, the FCC writes that funding requests have been approved and that payment has been remitted to Computer Consulting. I hope you find this information helpful and responsive to your earlier correspondence.

If I can be of any further assistance, please do not hesitate to let me know.

Again, thank you for contacting me with your concerns. I hope you will continue to keep me informed of issues that are important to you.

Sincerely,


MITCH MCCONNELL  
UNITED STATES SENATOR

MM/jm

Enclosure

FEDERAL BUILDING  
241 EAST MAIN STREET  
ROOM 102  
BOWLING GREEN, KY 42101  
(270) 781-16731886 DOBE HIGHWAY  
SUITE 345  
FORT WRIGHT, KY 41011  
(502) 578-0188771 CORPORATE DRIVE  
SUITE 108  
LEXINGTON, KY 40503  
(606) 224-8286300 SOUTH MAIN  
SUITE 310  
LOUISVILLE, KY 40241  
(502) 564-2025601 WEST BROADWAY  
SUITE 830  
LOUISVILLE, KY 40202  
(502) 582-6304PROFESSIONAL ARTS BUILDING  
2320 BROADWAY  
SUITE 100  
PADUCAH, KY 42001  
(270) 442-4554



# **EXHIBIT I**



**Universal Service Administrative Company**  
Schools & Libraries Division

CASE 2005-BEN# 129009

Date: 4/16/07  
To: Shari Winstead  
Entity: HOPKINS COUNTY SCHOOL DISTRICT  
Fax #: (270) 825-6072  
Sender: Michael Deusinger  
Phone: 973-581-6750  
Fax: 973-599-6515  
E-mail: mdeusin@sl.universalservice.org  
Subject: Pattern Analysis Information Request FY 2005

\*\*\*                      \*\*\*                      \*\*\*

This Pattern Analysis Information Request (PAIR) is related to FY 2005 Form 471 E-rate application # 465032. Our Program Integrity Assurance (PIA) review revealed Forms 470 and Request for Proposals (RFPs) that share similarities with other billed entities' Forms 470 and RFPs. These similarities require us to seek additional information regarding the preparation of your Form 470 and RFP.

Enclosed please find a certification which must be signed by a person authorized to represent the entity and most knowledgeable about the information set forth in the responses to the PAIR. Submit the certification back to me, Mr. Michael Deusinger, with your responses to the PAIR.

You have **15 days** to respond to this request. Your response is due by the close of business 5/1/07. Please provide complete responses and documentation to the questions listed below. If the question(s) is not applicable, please explain why. It is important that you provide complete responses to ensure the timely review of your application. If you do not respond or provide incomplete responses, your funding request (FRNs) may be reduced or denied.

If the applicant's authorized representative completed the information in this document, please attach a *copy of the letter of agency or another agreement* between the applicant and the consultant authorizing them to act on the school or library's behalf. If you receive assistance outside of your organization in responding to this request, please indicate this in your reply. **Computer Consulting & Network Design should not be consulted in this matter.**

Should you wish to cancel your Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

**Form 470 Submissions**

Program rules prohibit service providers from participating in the development, completion and posting of the Form 470. We have determined that Forms 470 cited by Computer Consulting & Network Design entities share similarities, which implies that Computer Consulting participated in the completion and/or posting of your entity's Form 470. The similarities present are a similar

Applicant Form Identifier naming convention, similar statements in Blocks 12 and 13, and an indication that an RFP was used in the Competitive Bidding process.

1. Please provide the name, title and employer of all of the individuals who filled out and submitted (i.e., mailed or posted the Form 470 on the Schools and Libraries website) Form 470# 479060000494093. Also provide those individuals' contact information. If they are not an employee of your organization, how are they affiliated with your entity and why were they selected to complete or post your Form 470?

The Form 470 was submitted by Shari Winstead, Director of Technology for Hopkins County Schools.

2. Please provide the specific location from which the Form 470# 479060000494093 was filed and submitted. If the Form 470 was not posted from your organization's location, please explain why.

The Form 470 was submitted from the Hopkins County Board of Education office at 320 South Seminary Street, Madisonville, KY which is our organization's location. It was submitted from my personal workstation in my office.

3. If a service provider employee assisted in the completion and/or posting of Form 470# 479060000494093, please provide the name and title of the Service Provider's employee and describe the assistance. Please also provide that individual's contact information. Explain why you selected them to assist your organization with completing or posting your Form 470. To the best of your knowledge, explain whether the service provider was aware that an employee assisted with the completion and/or posting of your entity's Form 470.

No service provider assisted in the completion and/or posting of the Form 470.

4. If a consultant assisted in the completion and/or posting of Form 470# 479060000494093, please provide the name and contact information for the consultant. Please also provide the consulting agreement, Letter of Agency, or other agreement that was in place at the time the Form 470 was posted.

No consultant assisted in the completion and/or posting of the Form 470.

5. Please explain the process your entity used to determine the Form 470 Applicant Form Identifier, including an indication of the individual responsible for the Applicant Form Identifier used.

I used 05-Maint-District for this particular 471# for no particular reason. I used 05-IC-District for the internal connections 471# and 05-T-Cinergy for the telco 471#. I may have seen another district organize it in such a way and probably liked that naming convention. I believe I have used that naming convention since my Year 8 filings.

6. Please explain the process your entity used to develop the statements present in Blocks 12 and 13 of the Form 470, including an indication of the individual responsible for the statements.

The district has used the statement in block 12 for as long as I can remember and even before I became the technology director. The statement in block 13 is also standard. General statements of this nature are provided to us in general e-rate training sessions and district purchasing guidelines and are aimed at ensuring we follow state model procurement laws.

## **Request for Proposal (RFP)**

1. In response to our FY 2005 Selective Review Information Request (SRIR), you provided a Request for Proposal (RFP) that was used in your competitive bidding procurement process. Your Request for Proposal is similar to other billed entity RFPs. The similarities include similar/identical format and wording. Please explain why these similarities exist. Provide documentation, if available, that will support your response (e.g., needs assessment, memorandums).

I am not sure why our RFP is similar in format and wording to others. Districts sometimes share documents such as this with each other when the purpose of proposal is similar in nature. This happens constantly in this profession especially since we deal with so many like purchases. Just yesterday in a meeting, someone was looking for a sample RFP for fiber proposals. RFPs float around like this all the time and it is not uncommon to take someone's RFP and use it as a basis for your own.

2. Please provide the name, title and employer of all of the individuals, both within and outside of the School District, that helped in the preparation of your RFP. If you had assistance in preparing your RFP outside of the School District please indicate who provided such assistance (and indicate whom they represent), how they became involved in the process, and their level of involvement in the process.

I, Shari Winstead, am the sole individual responsible for the preparation of this RFP.

3. Please indicate if your RFP was based on a template RFP that was provided to the School District. If your RFP was based on a template RFP please cite the organization responsible for the origination of the template RFP.

This RFP was not based on a template RFP. Rather, it was based off samples I had from previous filings, internet sources, and information shared from other districts. It is not uncommon for districts to share these types of documents and alter them to suit their specific needs.

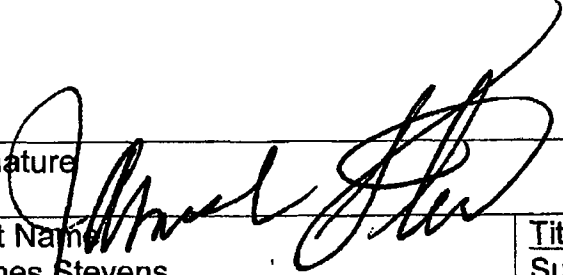
If you have any questions, please contact me at 973-581-6750. Thank you.

**Michael Deusinger**  
Program Compliance

**PATTERN ANALYSIS CERTIFICATION**

I certify that I am authorized to make the representations set forth in the responses to the Pattern Analysis Information Request on behalf of Hopkins County Schools, the entity represented on and responding to the Pattern Analysis Information Request, and am the most knowledgeable person with regard to the information set forth therein. I certify that the responses and supporting documentation to the Pattern Analysis Information Request are true and correct to the best of my knowledge, information and belief. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I acknowledge that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

I declare under penalty of perjury that the foregoing is true and correct. Executed on 18<sup>th</sup> day of April, 2006 at Madisonville, KY.

Signature 		Date April 18, 2007
Print Name James Stevens		Title Superintendent
Employer Hopkins County School District		
Telephone Number 270-825-6000		Fax Number 270-825-6062
Email Address james.stevens@hopkins.kyschools.us		
Address 320 South Seminary Street Madisonville, KY 42431		